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American Samoa

Working paper prepared by the Secretariat

Contents

		Page
	The Territory at a glance	3
I.	Constitutional, legal and political issues	4
II.	Budget	7
III.	Economic conditions	7
	A. General	7
	B. Fisheries and agriculture	8
	C. Tourism	8
	D. Transport and communications	9
	E. Water, sanitation system and utilities	9
IV.	Social conditions	10
	A. General	10
	B. Labour and immigration	10
	C. Education	11

Note: The information contained in the present working paper has been derived from public sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations. Information was transmitted by the administering Power on 8 January 2014. Further details are contained in previous working papers, available from www.un.org/en/decolonization/workingpapers.shtml.

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D. Public health 11
E. Crime and public safety 11
V. Environmental protection and disaster preparedness 12
VI. Relations with international organizations and partners 12
VII. Future status of the Territory 13
A. Position of the territorial Government 13
B. Position of the administering Power 13
C. Action by the General Assembly 13

The Territory at a glance

Territory: American Samoa is a Non-Self-Governing Territory under the Charter. It is an unincorporated and unorganized territory of the United States of America, administered by the Office of Insular Affairs of the United States Department of the Interior.

Representative of administering Power: United States Department of the Interior, which has a representative resident on the ground.[a]

Geography: Located in the South Pacific, approximately 3,700 km south-west of Hawaii and 4,350 km north-east of Australia. The Territory consists of seven islands: Tutuila and Aunuu, in addition to Ofu, Olosega and Ta'u (known as the Manu'a Islands) and the two coral atolls of Swains and Rose.

Land area: 200 km².

Exclusive economic zone: 404,391 km².[b]

Population: 55,519 (2010 estimate).

Ethnic composition: Native Pacific Islander: 91.6 per cent; Asian: 2.8 per cent; white: 1.2 per cent; other ethnic origin: 2 per cent.

Languages: English, Samoan.

Seat of Government: Fagatogo.

Head of territorial Government: Governor Lolo Letalu Matalasi Moliga.

Main political parties: Democrat, Republican.

Elections: The most recent elections were held in November 2012 (Governor/Lieutenant Governor, the delegate to the United States House of Representatives and 20 members of the American Samoa House of Representatives). The next elections are due in November 2014 (House of Representatives).

Legislature: Fono (bicameral legislative assembly).

Gross domestic product (GDP) per capita: $9,164 (2012).

Economy: Fishing and agriculture.

Unemployment rate: 29.8 per cent (2005 estimate).

Monetary unit: United States dollar.

Brief history: It is believed that the Samoan archipelago was settled some 3,000 years ago by people migrating from South-East Asia. The Dutch were the first Europeans to reach the islands, in 1722. The 1899 Treaty of Berlin, also known as the "Anglo-German Samoa Convention", apportioned to the United States the eastern islands of the Samoan archipelago.

[a] Secretary's Order 2657 of 29 August 1951 and Secretary's Order 3009, as amended, of 3 November 1977, set forth the extent and nature of the authority of the Government of American Samoa and the manner in which the authority is to be exercised (see the Electronic Library of Interior Policies, United States Department of the Interior).

[b] Exclusive economic zone data from the "Sea Around Us" project, a collaboration between the University of British Columbia and the Pew Environment Group (see www.seaaroundus.org).

I. Constitutional, legal and political issues

1. By the late 1800s, internal strife among the chiefs of the islands of the Samoan archipelago and struggles among the colonial Powers of Germany, the United Kingdom of Great Britain and Northern Ireland and the United States led to a period of instability. Deeds ceding the islands to the United States from the early 1900s were accepted by an Act of Congress on 20 February 1929. Pursuant to that Act, American Samoans were given the status of United States nationals. The Act provided for an American Samoan Government with all civil, judicial and military powers to be vested in a designee of the President of the United States. Given that the United States interest in the area had been mainly military, the Territory was placed under the jurisdiction of the United States Navy. On 29 June 1951, Executive Order 10264 of the President of the United States transferred administrative responsibility for the Territory to the Department of the Interior.

2. American Samoa is an unincorporated and unorganized territory under United States law. Not all provisions of the Constitution of the United States or of United States law apply. Residents of American Samoa are not United States citizens, but are United States nationals who can freely enter the United States and work or reside anywhere they choose. Children born in the Territory to foreign parents become citizens of either the mother's or the father's country of origin, not United States nationals. American Samoans may not vote in general elections in the United States, but are permitted to participate in presidential primaries and caucuses.

3. The Territory's Constitution provides for separate executive and legislative branches and an independent judiciary. The executive branch comprises a governor and a lieutenant governor elected for four-year terms by universal adult suffrage. All American Samoans over 18 years of age are eligible to vote. The Governor is responsible for executing both American Samoan and United States laws and has veto power with regard to legislation passed by the Fono, the Territory's legislature.

4. The Fono is a bicameral legislature, comprising the Senate, whose 18 members are chosen by 14 tribal councils, and the House of Representatives, 20 of whose members are elected by popular vote, with the other appointed as a non-voting delegate from Swains Island. Only a "matai", the traditional chief of an extended family, or "aiga", can become a senator. Senators hold office for a four-year term and representatives for a two-year term. The Fono may pass laws with regard to all local affairs, provided that they are not inconsistent with United States laws in force in the Territory or with United States treaties or international agreements.

5. The judiciary system consists of a high court, for which the Chief Justice and the Associate Justices are appointed by the United States Secretary of the Interior, and the local district and village courts, for which the judges are appointed by the Governor. The High Court is separated into Appellate, Trial, Land and Titles, and Family, Drug and Alcohol divisions. The United States Congress has granted limited federal jurisdiction to the High Court to hear certain cases involving federal statutory issues. Examples of federal judicial power delegated to the High Court include the authority to decide Occupational Safety and Health Administration issues and ship mortgage actions in American Samoa. Other matters of federal law arising in the Territory are adjudicated in the United States district courts, mainly the federal courts in Hawaii and Washington, D.C. Given that American Samoa is not part of a United States federal judicial district or circuit, there are no statutory

provisions for appealing against decisions of the High Court to a federal district court.

6. The 1960 Constitution of American Samoa was revised in 1967 and subsequently amended in 1970 and 1977. Any amendments or modifications to the Constitution of American Samoa (as approved by the United States Secretary of the Interior) may be made only by an Act of the United States Congress. In 2008, a referendum that would have revised an aspect of the Constitution was narrowly defeated. The June-July 2010 Constitutional Convention proposed amendments or revisions to the current Constitution, including those relating to the prohibition of further individualization of communal lands in the Territory, the establishment of an impartial jury in all criminal prosecutions, the enhancement of the Samoan language and culture in the educational system, the management and preservation of the natural resources of the Territory in accordance with local laws, and the provision for an impeachment of the Territory's leaders. At the general election held in November 2010, however, the voters overwhelmingly defeated the proposed changes.

7. At the general elections held in November 2012, voters chose a new Governor, independent candidate Lolo Letalu Matalasi Moliga, 20 members of the American Samoa House of Representatives and the delegate to the United States House of Representatives. A referendum on an amendment to the revised Constitution, proposed by the thirty-second legislature, was also held at the same time. The ballot question read: "Should article II, section 9, of the revised Constitution of American Samoa be revised to give the Fono, rather than the Secretary of the United States Department of the Interior, the power to override the Governor's veto?" Voters rejected the proposal.

8. Since 1981, American Samoa has elected by direct vote a delegate to the United States House of Representatives for a two-year term. The delegate may vote in committees and on the floor except on final passage. In the general election held in 2012, Eni F. H. Faleomavaega was re-elected to serve his thirteenth term as the delegate of American Samoa to the United States House of Representatives.

9. On 26 June 2013, the United States District Court for the District of Columbia dismissed a lawsuit filed by five non-citizen United States nationals born in American Samoa and the Samoan Federation of America (*Tuaua v. United States*) seeking a declaratory judgement that would assert that the citizenship clause of the Fourteenth Amendment extends to American Samoa. As stated in paragraph 2 above, American Samoa is an unincorporated territory, meaning that people born there are not recognized birthright citizenship. At the time of preparation of the present working paper, an appeal had been filed before the United States Court of Appeals for the District of Columbia Circuit.

10. Addressing the United States House of Representatives on 27 June 2013, the delegate from American Samoa expressed thanks to the Court for what he termed "its well-reasoned opinion" and for "reaffirming the authority of Congress to grant citizenship to the people of American Samoa". In his view, the decision would allow the people of American Samoa to decide whether they wished to become citizens. In a letter addressed to the territorial Governor and the Fono in April 2013, he had stated that the lawsuit posed a threat to the traditional culture of American Samoa and that it was unknown whether the entire Constitution of the United States would apply to American Samoa if the Court applied the citizenship clause to it. He had

also said that, if people born in American Samoa automatically became United States citizens, the United States would likely take control of the immigration system in American Samoa. He had affirmed that it was important that the people of American Samoa, and not the Court, should decide whether they wished to become United States citizens by birthright.

11. According to media reports, the Governor of the Territory submitted his official position on the political status of American Samoa in a document dated 13 June 2013 entitled "Decolonization issue regarding American Samoa", which was forwarded in the same month to the Office of Insular Affairs of the United States Department of the Interior. He noted that American Samoa was not a colony of the United States, but rather a territory, a status that had been fashioned voluntarily because of economic overtones. While the United Nations was not legally empowered to decolonize any territory, he was appreciative of its continued diligence to ensure that the administering Powers revisited existing relationships with their territories or insular possessions to ensure that every opportunity was provided for the latter to opt out if they so desired. In his view, the United Nations was genuinely committed to ensuring that the general welfare of those territories was secured through the development of their financial systems, the strengthening of their Governments and the building of self-sustaining economies.

12. The Governor pointed out that the current status of American Samoa provided more self-determining authority to American Samoa to make its own decisions. The prevailing perception that American Samoa was a colony by definition stemmed from the informal character of the relationship with the United States, with the absence of an organic act that formally defined the relationship. In a de facto sense, American Samoa was part of the United States, substantially self-governing and not a colony in any real sense. American Samoa had freely, through its deeds of cession, bequeathed its sovereignty to the United States; it had not been acquired through any military conquest. Being part of the United States family was really a matter of self-determination.

13. The Governor also noted that, while the federal Government had lived up to its commitment to American Samoa with regard to the provision of funds, there were current issues decided at the congressional level, which had negatively affected the ability of American Samoa to advance its social and economic development prospects. He pointed out, however, that American Samoa had representation in the United States Congress to register its objections to measures that adversely affected its ability to improve people's quality of life.

14. The Governor recalled the recommendation made in 2006 by the Future Political Status Study Commission that American Samoa continue as an unorganized and unincorporated territory and that a process of negotiation with the United States Congress for a permanent political status be initiated, in addition to the points forming the basis for such negotiations (see A/AC.109/2008/3). He further expressed his personal preference for the United States Congress, which had the ultimate authority to decide on the type of political status that the United States would have with American Samoa, to relinquish that authority to the people of American Samoa in order to empower them to make the decision that they deemed appropriate.

II. Budget

15. The final version of the budget for the fiscal year 2014, which began on 1 October 2013, amounted to $455 million. According to the Office of Insular Affairs of the Department of the Interior, grant funds are provided each year to American Samoa for the operation of the local government, including the judiciary, to fill the gap between budget needs and local revenues. The Office's 2014 budget request for American Samoa operations is $22.8 million, with 61.5 per cent allocated to basic operations and 34.5 per cent to the Lyndon Baines Johnson Tropical Medical Center operations. The Office has designated American Samoa as a high-risk grantee in an effort to improve accountability for federal funds. Such designation allows the Office to require grantees to comply with special conditions for future or existing grants. The special conditions may include payment of grant funds on a reimbursable basis; withholding of approval to proceed from one project phase to another until receipt of acceptable evidence of current performance; additional project monitoring; and requiring grantees to obtain technical or management assistance. The high-risk designation will be removed once the Government of American Samoa:

(a) Has completed single audits by the statutory deadline for the two most recent consecutive years, resulting in opinions that are not disclaimed and do not contain qualifications that the Office determines in its reasonable discretion to be material;

(b) Has a balanced budget, as confirmed by independent auditors, for the two most recent consecutive years, without regard for non-recurring windfalls such as insurance settlements;

(c) Is in substantial compliance with the memorandum of agreement signed in 2002 between the territorial Government and the Office and the fiscal reform plan.

III. Economic conditions

A. General

16. The review of American Samoa's Comprehensive Economic Development Strategy was released in August 2012 following a process of consultation engaging the American Samoa community. The document, prepared by the Territorial Planning Commission and the Department of Commerce of the Government of American Samoa, was made available for public review and comment between 5 September and 5 October 2012. The purpose of the strategy was to provide for the proper identification of future development opportunities and the removal or mitigation of conditions preventing their full realization. The main aspects were detailed in the previous working paper (A/AC.109/2013/11).

17. As noted in the previous working paper, the President of the United States, Barack Obama, signed the Insular Areas Act into law on 26 July 2012, postponing the minimum wage increase for 2012, 2013 and 2014. Annual wage increases of $0.50 will recommence on 30 September 2015 and will continue every three years until all rates have reached the federal minimum. The wage rates are set for

particular industries, not for an employee's particular occupation. The rates are minimum rates; an employer may choose to pay an employee at a rate higher than the rate or rates for its industry.

18. In September 2013, the United States Bureau of Economic Analysis released GDP estimates for the Territory for 2010 and revised estimates for 2011 and 2012, in addition to estimates of GDP and compensation by industry for 2011. Real GDP increased by 0.5 per cent in 2011 and decreased by 2.4 per cent in 2012. In 2011, the increase in real GDP reflected an increase in territorial government spending that was partly offset by a decrease in consumer spending. The growth in territorial government spending reflected increased investment that was largely due to continued reconstruction efforts following the earthquake and tsunami of 2009. The reduced consumer spending reflected increases in prices and decreases in compensation. In 2012, the downturn in real GDP reflected a continued decrease in consumer spending and a downturn in territorial government spending. Activities associated with the tuna canning industry offset some of the declines in consumer and government spending. Exports of goods, primarily canned tuna, increased. Private construction activity also increased, reflecting the construction by Tri Marine of a cold-storage facility.

19. The Territory's largest trading partner is New Zealand, followed by the United States, Australia, India, Indonesia and Japan. As previously reported, American Samoa imports some 90 per cent of goods and products, including food and petroleum products, machine parts, building materials, textiles and clothing.

B. Fisheries and agriculture

20. The report of the United States Government Accountability Office on the impact of the minimum wage increases (see A/AC.109/2012/11, para. 16) reflects concerns about the Territory's loss of competitive advantage in the global tuna canning industry. The analysis presented shows that moving tuna processing plants to other tariff-free countries with lower labour costs would significantly cut operational costs in the industry. The competitive advantage of American Samoa is severely compromised by the duty-free treatment granted by the federal Government to countries such as Canada and Mexico, which benefit from provisions under the North American Free Trade Agreement that lifted tariffs in January 2008.

21. Almost 90 per cent of all farms in the Territory operate on a subsistence basis. Prospects for agricultural development continue to be limited because much of the land is volcanic and mountainous and only a small amount of level land is suitable for cultivation. At the same time, farmers in American Samoa benefit from assistance provided by the Natural Resources Conservation Service of the United States Department of Agriculture and its environmental quality incentives programme.

C. Tourism

22. The American Samoa Statistical Yearbook 2012, published by the American Samoa Department of Commerce, found that the United States continued to be the primary tourism market for the Territory, holding 56 per cent of the share. New Zealand followed with 29 per cent, Australia with 11 per cent and other countries

with the remaining 4 per cent. In 2012, visitor arrivals dropped for the fourth year in a row.

D. Transport and communications

23. There are approximately 180 km of public and primary paved roads and 235 km of secondary village roads in American Samoa. Pago Pago harbour, an all-weather deep-draught harbour, is one of the best natural deep-water harbours in the South Pacific and is of strategic importance to the region. The main dock is 1,000 feet long, handling ships of up to a 32-foot draught. The harbour provides the full complement of equipment and facilities. The ship repair facility features a 3,000-ton marine railway.

24. The four airports in the Territory are situated on the islands of Tutuila, Ofu, Olosega and Ta'u. Pago Pago International Airport is owned and operated by the territorial Government. The main airport is regularly served by a number of airlines that link American Samoa with Hawaii and the continental United States, in addition to countries in the South Pacific. Within the Territory, Inter Island Airways offers regular flights to Ofu, Olosega and Ta'u.

25. The Territory's air transport service to and from the United States is severely restricted by United States cabotage laws that prohibit foreign carriers from transporting passengers between American Samoa and other parts of the United States, according to the Comprehensive Economic Development Strategy document.

26. The Territory has three FM stations and three AM stations, serving some 57,000 radios. One government-owned television station broadcasts over three channels to approximately 14,000 television sets. Internet access is provided by the American Samoa Telecommunications Authority, a semi-autonomous government agency.

E. Water, sanitation system and utilities

27. The American Samoa Power Authority provides water, wastewater, solid-waste and electric services to customers on five of the seven islands. It provides drinking water to 90 per cent of the Territory from wells, with the remaining 10 per cent being serviced by outer-village systems. Its budget for the fiscal year 2014 increased by 15 per cent compared with the previous fiscal year, while the workforce decreased from 483 to 460 workers.

28. American Samoa depends entirely on diesel-generated power. Through the American Samoa Territorial Office of Fiscal Reform, the American Samoa Power Authority applied to the Federal Emergency Management Agency for funds to construct and operate a 23.5 MW power plant to replace the capacity lost when the Satala power plant was severely damaged by the earthquake, tsunami and flood of 29 September 2009. According to the environmental assessment prepared by the Agency in December 2013, the plant sustained severe damage in the disaster and was subsequently demolished, eliminating its ability to meet the energy demands of American Samoa. Since then, the Authority has been meeting demand through temporary generators, an inefficient and unfeasible long-term solution. The environmental assessment identified five options for the construction and operation

of a replacement power plant that would return the Authority's power distribution network to its pre-disaster capacity. Given that waste management is recognized as a major public health and environmental concern for Pacific island countries and territories, American Samoa is part of the region's strategy for solid-waste management, which sets the strategic direction for the period 2010-2015.

IV. Social conditions

A. General

29. Known as "fa'asamoa", the Samoan way of life is based on the notion of mutual respect and sharing among the aiga (extended families), each featuring a common allegiance to a matai (chief), and it influences every aspect of the Territory's socioeconomic fabric. Since 2008, the Territory's legislature has been working to further strengthen the use of the Samoan language in public schools, in tandem with English.

30. In 2011, the Pacific office of the United Nations Children's Fund and the Secretariat of the Pacific Community published *The State of Pacific Youth 2011: Opportunities and Obstacles*, a report highlighting significant problems facing young people in the Pacific, including American Samoa, such as the high number of teenage pregnancies, the high proportion of female teenagers who are raped (26 per cent) and alcohol abuse.

31. According to the American Samoa Statistical Yearbook 2012, about 57.8 per cent of the population, or 54.4 per cent of families, were below the United States poverty level in 2009. Almost 18 per cent of families are headed by a single female.

B. Labour and immigration

32. Further to the employment situation reported in 2012 (see A/AC.109/2012/11, sect. B), the Comprehensive Economic Development Strategy document states that, according to more recent estimates, employment began to rebound in 2010 and 2011, owing to United States economic and disaster recovery programmes, through substantial and extraordinary federal expenditure increases in American Samoa in 2009 and 2010.

33. American Samoa has its own immigration laws and conditions for entry to the Territory, which are not the same as those applicable to the United States. As previously reported, a new immigration law for American Samoa has entered into force, giving the Attorney General, rather than a government-appointed board, full authority over the granting of permanent resident status. The Comprehensive Economic Development Strategy document found that local control of immigration was an important advantage to American Samoa, especially in view of its limited labour force skill range and the need to bring in skilled workers and management for many industries. It further recommended revising the immigration law, policy and procedures to better accommodate business labour requirements and expressed concern that local immigration and customs control in American Samoa could be federalized, a scenario that could have very severe adverse effects on the local labour market.

C. Education

34. Education in American Samoa is compulsory from 6 to 18 years of age. The education system is broadly based on that of the United States. According to the American Samoa Department of Education, there are 22 early childhood education centres, 23 elementary schools and six high schools in the Territory. The Department serves 15,222 students in grades kindergarten to 12. A total of 95.7 per cent of the student population is Samoan, while 4.3 per cent of students hail from China, the Philippines, the Republic of Korea and Pacific islands. A five-year strategic school improvement plan is under development, with a review process to be conducted in the first half of 2014.

35. American Samoa has a literacy rate of approximately 97 per cent. There are five school districts, each centred on a high school together with lower-level elementary or "feeder schools". The Department has 563 teachers in elementary education, 248 teaching personnel in secondary education, 18 in vocational education, 202 in special education and 118 in early childhood education.

36. The American Samoa Community College offers two-year degree courses in the arts and sciences and certificate programmes of proficiency in vocational and clerical skills, business and nursing.

D. Public health

37. According to the 2013-2017 World Health Organization (WHO) Country Cooperation Strategy for American Samoa, the most serious health issues are related to the increase in chronic and non-communicable diseases owing to improper nutrition and physical inactivity. Significant increases have been seen in obesity, hypertension, cardiovascular diseases, cerebrovascular diseases, diabetes mellitus and its complications, arthritis and some forms of cancer.

38. Some 16 per cent of the Lyndon Baines Johnson Tropical Medical Center budget comes from the federal Government; most of the funds are used to purchase medical supplies. Vaccines and pharmaceuticals are purchased in the United States, given that the Food and Drug Administration prohibits the purchase of medicines elsewhere. Logistical and financial factors cause frequent scarcity problems.

39. According to WHO, the morbidity pattern has fundamentally changed over the past three decades, with an increase in non-communicable diseases stemming from modernization and lifestyle changes. Inappropriate nutrition and physical inactivity are the leading cause of significant increases in obesity in both sexes, especially young people.

E. Crime and public safety

40. The Territory continued to enhance cooperation with the Pacific Islands Chiefs of Police organization and the United States Department of Justice through its newly established Office of Territorial and International Criminal Intelligence and Drug Enforcement.

41. In 2012, it was announced that all Federal Bureau of Investigation operations and investigative efforts in American Samoa would be handled by the Bureau's

office in Honolulu, Hawaii. The decision for this consolidation was made by the United States Congress for budgetary reasons.

V. Environmental protection and disaster preparedness

42. The American Samoa Environmental Protection Agency, funded by the United States Environmental Protection Agency, is mandated to protect human health and to safeguard the natural environment: air, water and land.

43. Just as all South Pacific countries, American Samoa faces the problem of safe disposal of solid and liquid waste, in particular as a result of urbanization. According to the United Nations Environment Programme, point source pollution from industrial waste and sewage, inappropriately sited and poorly managed garbage dumps, and disposal of toxic chemicals is a significant contributor to marine pollution and coastal degradation. Concern is also growing that toxic and hazardous waste may be brought to the region from developed countries for disposal.

VI. Relations with international organizations and partners

44 American Samoa has been an associate member of the Economic and Social Commission for Asia and the Pacific since 1988. International labour conventions and recommendations are applicable to it. The Territory belongs to various regional bodies of the United Nations system, including WHO, for which it falls under the Regional Office for the Western Pacific and the Western Pacific Regional Centre for the Promotion of Environmental Planning and Applied Studies.

45. American Samoa is a member of several regional organizations, including the Secretariat of the Pacific Community, the Pacific Basin Development Council, the Pacific Tuna Development Foundation, the Pacific Islands Association of Non-governmental Organizations, the Asian South Pacific Bureau of Adult Education, the Pacific Asia Travel Association and the South Pacific Regional Environment Programme. The Territory participates in the Pacific Islands Applied Geoscience Commission and the Pacific Community Coastal Fisheries Programme. American Samoa also belongs to United States organizations, such as the National and Western Governors' Associations. The Government of American Samoa has signed memorandums of understanding with the Governments of Samoa and Tonga on mutual economic cooperation and has sent trade missions to a number of countries in the Pacific region.

46. At the forty-second Pacific Islands Forum Leaders' meeting, held in September 2011 in Auckland, New Zealand, American Samoa was accorded observer status. The Territory also holds observer status with the Alliance of Small Island States.

VII. Future status of the Territory

A. Position of the territorial Government

47. Section I of the present working paper reflects recent developments in American Samoa concerning its future political status.

B. Position of the administering Power

48. In a letter dated 2 November 2006 addressed to the delegate of American Samoa to the United States House of Representatives, the United States Assistant Secretary of State for Legislative Affairs set forth the position of the Government of the United States on the status of American Samoa and other United States insular areas. In his letter, the Assistant Secretary of State indicated that the status of the insular areas regarding their political relations with the federal Government was an internal United States issue, and not one that came under the purview of the Special Committee. He also stated that the Special Committee had no authority to alter in any way the relationship between the United States and those territories and no mandate to engage the United States in negotiations on their status. He further stated that, at the same time, in accordance with its obligations under the Charter of the United Nations to provide regularly to the United Nations statistical and other information of a technical nature relating to the economic, social and educational conditions in the Non-Self-Governing Territories, the federal Government submitted annual updates on United States territories to the Special Committee as a demonstration of United States cooperation as an administering Power and to correct any errors in information that the Special Committee might have received from other sources.

C. Action by the General Assembly

49. On 11 December 2013, the General Assembly adopted without a vote resolutions 68/95 A and B, based on the report of the Special Committee transmitted to the General Assembly (A/68/23) and its subsequent consideration by the Fourth Committee. Section I of resolution 68/95 B concerns American Samoa. Under the operative paragraphs of that section, the General Assembly:

> 1. *Welcomes* the work of the territorial Government with respect to moving forward on political status, local autonomy and self-governance issues with a view to making political and economic progress;
>
> 2. *Expresses* once again its appreciation for the invitation extended in 2011 by the Governor of American Samoa to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to send a visiting mission to the Territory, calls upon the administering Power to facilitate such a mission if the territorial Government so desires, and requests the Chair of the Special Committee to take all the steps necessary to that end;
>
> 3. *Requests* the administering Power to assist the Territory by facilitating its work concerning a public awareness programme, consistent

with Article 73 *b* of the Charter of the United Nations, and in that regard calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;

4. *Calls upon* the administering Power to assist the territorial Government in the diversification and sustainability of the economy of the Territory and to address employment and cost-of-living issues.

B. Education . . . 12
C. Health care . . . 13
VII. Environment . . . 13
VIII. Relations with international organizations and partners . . . 14
IX. Future status of the Territory . . . 15
A. Position of the territorial Government . . . 15
B. Position of the administering Power . . . 15
X. Consideration by the United Nations . . . 15
A. Special Political and Decolonization Committee (Fourth Committee) . . . 15
B. Action taken by the General Assembly . . . 16

The Territory at a glance

Territory: Guam is a Non-Self-Governing Territory administered by the United States of America. As an unincorporated organized territory of the United States, it is administered by the Office of Insular Affairs of the United States Department of the Interior.

Geography: Guam is the southernmost and largest of the Mariana Islands in the Pacific Ocean, situated about 2,200 km south of Tokyo and 6,000 km west-south-west of Hawaii. It consists of a single island comprising two distinct geologic areas of about equal size. The northern part of the island is a high coralline limestone plateau and the southern region is mountainous. Apra Harbor is one of the largest deep-water ports in the Pacific.

Land area: 540 km^2.

Exclusive economic zone: 214,059 km^2.[a]

Population: 159,358 (2010 census).

Languages: English and Chamorro.

Ethnic composition (2000 census): 37.1 per cent Chamorro; 26.3 per cent Filipino; 11.3 per cent other Pacific islanders; 6.9 per cent white; 6.3 per cent Asian; 2.3 per cent other ethnic origin; and 9.8 per cent mixed.

Capital: Hagåtña.

Head of the territorial Government: Eddie Baza Calvo (elected Governor in November 2010).

Territory's delegate to the United States Congress: Madeleine Z. Bordallo (re-elected in 2012).

Main political parties: Democratic and Republican Parties.

Elections: Most recent: 2012; next: September 2014.

Legislature: Unicameral 15-member legislature. Guam has a locally elected Government, which comprises separate executive, legislative and judicial branches.

Gross domestic product (GDP) per capita: $25,388 (2005 chained dollars, 2013 estimate).

Economy: Principal sources of revenue: tourism and the United States military presence.

Unemployment: 13.3 per cent (March 2013).

Monetary unit: United States dollar.

Brief history: The island was inhabited by the indigenous Chamorro people of Malayo-Polynesian descent when missionaries from Spain arrived in Guam in the late seventeenth century. The Chamorro now constitute just over one third of the population and play an active role in the political and social life of the island.

[a] Exclusive economic zone data derived from Johann D. Bell, Johanna E. Johnson and Alistair J. Hobday, eds., Vulnerability of Tropical Pacific Fisheries and Aquaculture to Climate Change (Nouméa, New Caledonia, Secretariat of the Pacific Community, 2011), e-book. Available from www.spc.int/climate-change/fisheries/assessment/e-book.

I. Constitutional, legal and political issues

1. Guam was administered by the Department of the Navy of the United States of America until 1950, when the United States Congress enacted the Organic Act of Guam, which established institutions of local Government and made Guam an unincorporated territory of the United States with limited self-governing authority. Since then, the Territory has been administered by the Department of the Interior. Guam is an unincorporated territory, since not all provisions of the United States Constitution apply to the island. As such, Guam is a possession but not part of the United States.

2. The United States Constitution does not permit Guam to appoint electors of the President and Vice-President of the United States. The people of Guam elect a Governor, who serves for a four-year term. No person who has been elected Governor for two full successive terms shall again be eligible to hold that office until one full term has elapsed. The Governor is responsible for the general supervision and control of the executive branch and submits an annual report to the United States Secretary of the Interior for transmission to Congress. The Governor may issue executive orders and regulations, recommend bills to the legislature, make his or her views known to that body and veto legislation. Following the November 2010 elections, Eddie Baza Calvo (Republican) was declared the new Governor of Guam.

3. Fifteen senators who serve two-year terms in the unicameral legislature are also elected. The legislature may override the Governor's veto. Under the 1950 Organic Act of Guam, the United States Congress reserves the authority to annul any law enacted by the Guam legislature. Guam has two main political parties, the Republican Party and the Democratic Party, which are local chapters of the two main United States political parties. In the November 2012 legislative elections, the Democrats won nine seats, and the Republicans six seats.

4. Since 1972, Guam has had one delegate to the United States House of Representatives. As previously reported, the delegate, who serves a two-year term, may vote in committee and, since January 2007, on floor amendments, but not on the final approval of bills. In the November 2012 elections, Madeleine Z. Bordallo, a Democrat, was re-elected for her sixth term as delegate to the United States Congress with 58 per cent of the votes.

5. The judicial system in Guam comprises local and federal components. The local judicial system consists of a Superior Court and a Supreme Court, which are led by judges appointed by the Governor and confirmed by the legislature. Local judges are subject to confirmation by voters every six years. In 2004, the judiciary of Guam was established as an independent branch of Government. The law confirmed the appellate jurisdiction and administrative authority of the Supreme Court of Guam over all inferior courts in the Territory, thereby effectively establishing a unified local judiciary.

6. At the federal level, a District Court judge, appointed by the President of the United States, is the head of the United States District Court of Guam. In 1998, Congress adopted an amendment to the Organic Act of Guam, allowing the Guam legislature to elect its own Attorney General for a four-year term. The Attorney General is the chief legal officer of the Government of Guam and is empowered with prosecutorial authority.

7. Periodically, there have been moves to change the island's political status. The Guam legislature established the first Political Status Commission in April 1973. In a 1976 referendum, Guamanians decided to maintain close ties with the United States, but also to begin negotiations to improve the Territory's status. In 1979, the people of Guam rejected a draft constitution by a margin of 5 to 1, mainly on the grounds that the question of political status had to be resolved before a meaningful constitution could be drafted. Another referendum was held in 1982, with 73 per cent of voters opting to pursue commonwealth status with the United States.

8. The Commission on Self-Determination, established in 1980, completed a draft commonwealth act in 1986, which, after a public education campaign, was submitted for an article-by-article vote on 8 August 1987 (see A/AC.109/1192, paras. 19-37). Voters approved the core proposals but rejected articles empowering the Government of Guam to restrict immigration and granting the indigenous Chamorro people the right to determine the future political status of the Territory. In a further referendum in November 1987, both of those outstanding provisions were approved after having been amended and rewritten. A summary of the main points in the draft commonwealth act is contained in a 2001 working paper (A/AC.109/2001/4).

9. Subsequent discussions, held from 1989 to 1997, between the Commission and the Government of the United States on a commonwealth agreement did not reach a resolution. In 1997, Guam Public Law 23-147 established the Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination in order to address an important but controversial issue involving the Chamorro population. The Commission, in concert with a process of registration of eligible voters organized by the Guam Election Commission, was to oversee the conduct of a vote with regard to the status preferences of the Chamorro people (independence, integration or free association), in accordance with international standards.

10. In 2000, the Guam legislature provided the Guam Election Commission with the power to set the date of the decolonization plebiscite, in which it was expected that the Territory's indigenous people would be asked to choose between statehood, independence and free association with the United States. The plebiscite would have been non-binding but would at the same time have set the course for any future discussions of political status with the administering Power. The vote, scheduled to take place on 2 November 2004, was postponed because eligible voters had not been identified and registered. In October 2010, the President of the United States, Barack Obama, signed bill H.R. 3940 into law. The Law clarifies the Secretary of the Interior's authority and obligation to provide federal funding for political status education in Guam. It should help the people of Guam become aware of their constitutionally viable political options. Eligible voters are those who can trace their roots back to those residents living on the island at the time of the passage of the Organic Act in 1950 who were made citizens by federal law. Universal suffrage with respect to elections applies to United States citizens who are 18 years of age or over and legally resident in Guam. All persons born in Guam and subject to the jurisdiction of the United States are citizens of the United States. The Guam Election Commission announced that there were 45,732 registered voters as at August 2013 and 6,340 registered native inhabitants as at November 2012.

11. In 2011, Mr. Calvo convened the Commission on Decolonization for the first time in about a decade. The Commission is preparing a preliminary report on an education programme designed to keep residents informed regarding the future plebiscite vote for self-determination. The report will detail timelines and procedures and must be submitted to the Guam legislature for review.

12. During the Caribbean regional seminar on the implementation of the Third International Decade for the Eradication of Colonialism, held in Quito from 28 to 30 May 2013, the representative of the Government of Guam presented information on the efforts of the Guam Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination to raise public awareness and find creative ways to raise funds for the Territory's education programme and on the importance of public outreach, as the Commission continued to meet with and speak before public high schools, civil society organizations and cultural groups, in emphasizing the correct messaging to the masses. In conclusion, he proposed that the Electoral Assistance Division of the Department of Political Affairs of the Secretariat begin supplying information on political status options, since the lack of such information impeded territories from knowing more about the three status options, thus hindering their path to decolonization. He also proposed that the General Assembly endorse a work programme for the decolonization of each territory and that periodical analyses be conducted on progress made in and the extent of the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. He called on the Special Committee to implement the recommendations of the Assembly, as a matter of urgency, before decolonization faded in importance and before it became too difficult to counter the tendency to legitimize unequal territorial relationships.

II. Military and related issues

13. As previously reported, in 2009 the United States decided that United States Marine Corps capabilities in the Pacific region would be realigned by 2014, through the transfer of United States military personnel from Okinawa, Japan, to Guam.

14. On 5 January 2012, the United States President released a new strategic guidance document that directed rebalancing towards a strengthened presence in the Asia-Pacific region. In March, the United States Department of Defense tasked the Center for Strategic and International Studies with conducting an independent assessment of the United States posture in the Pacific. On 24 July 2012, the Secretary of Defense submitted to Congress the Center's assessment, together with his disagreement with the Center's suggestion that the Department could consider moving fewer than approximately 5,000 marines to Guam, as moving fewer than that number would undermine the United States plan to establish multiple, fully capable marine air-ground task forces across the Asia-Pacific region.

15. On 26 April 2012, a joint United States-Japan statement specified that, out of about 9,000 marines to be relocated from Okinawa, 5,000 of them would move to Guam when appropriate facilities were available to receive them. The move would cost a total of $8.6 billion, with Japan contributing $3.1 billion.

16. In December 2013, the United States Government Accountability Office published a report entitled "Further analysis needed to identify Guam's public infrastructure requirements and costs for the Department of Defense's realignment

plan". In the conference report accompanying the National Defense Authorization Act for Fiscal Year 2013, the Government Accountability Office was mandated to evaluate what public infrastructure projects were needed in Guam to support the plans of the Department of Defense. The report contained a description of the public infrastructure of Guam and the types of assistance generally provided by the Department of Defense and other sources of funding for projects in Guam, an assessment of the efforts made by the Department of Defense to revalidate projects in Guam under the revised realignment plan and an estimate of the cost of public water and wastewater infrastructure improvements in Guam to support Department of Defense budget requests. The Government Accountability Office found that the reliability, capacity and age of much of the public infrastructure — especially the island's utilities — indicated that additional upgrades were needed to meet current and future demands related to the realignment. In its report, the Government Accountability Office noted that, notwithstanding the reduction in marines and their dependents relocating to Guam, the Department of Defense had not yet revalidated the public infrastructure requirements based on the revised realignment plan or differentiated between requirements needed to address long-standing conditions and those related to the realignment. This revalidation is not expected to be completed until 2015. In addition, the estimate of $1.3 billion for improvements to the water and wastewater systems that the Department of Defense had used to support budget requests for fiscal years 2013 and 2014 was found to be unreliable. The recommendations of the Government Accountability Office included that the Department of Defense take action to revalidate public infrastructure needs in Guam based on the size of the revised realignment and to ensure that best practices are used to develop future cost estimates.

17. According to the administering Power, on 12 December 2013 the House of Representatives passed the National Defense Authorization Act for Fiscal Year 2014, which authorizes and sets policy for the Department of Defense for fiscal year 2014. The bill authorizes $552.1 billion for the Department of Defense and $80.7 billion for the funding of overseas contingency operations. It also authorizes the appropriation of $494.6 million in military construction funds for Guam, including $85.6 million for a United States Marine Corps aircraft hangar at North Ramp on Andersen Air Force Base, which directly supports the realignment of marines from Okinawa to Guam. The bill provides for the use of funds from the Government of Japan for a site improvement project worth $114 million at North Ramp on Andersen Air Force Base, as well as unlimited funds for use in planning and designing future projects. Pursuant to the provisions of the bill, the Department of Defense is required to convene a meeting of the Economic Adjustment Committee within 90 days of the passage of the bill to better validate civilian infrastructure funding in Guam and produce a final report on such funding at the time of signing the "record of decision" on the realignment of marines to Guam. On 26 December 2013, the National Defense Authorization Act for Fiscal Year 2014 was passed by both the House of Representatives and the Senate and signed into law by the United States President.

III. Land issues

18. The question of land use and landownership encompasses two major issues: the return of unused or underutilized lands held by the United States Department of

Defense and the return of those lands to the original Chamorro landowners. In view of the envisaged military build-up, the Department of Defense has been interested in acquiring at least an additional 2,200 acres of non-federal land. Of the 147,000 acres of land available on Guam, the Department of Defense currently possesses 40,000 acres, or 27.21 per cent of the island's land mass. Private landowners in the Territory have the right to refuse to sell any of their land for military purposes. With regard to public land, such requests would need the approval of the Guam legislature.

19. It has been reported that the Department of Defense and Guam are at an impasse over the question of the use of ancestral land for a Marine Corps firing range. The military has been unable to get the support needed from the Government of Guam to place Marine live-fire ranges on ancient Chamorro land at Pagat Village, a federally registered archaeological site that holds deep meaning for many inhabitants of the island. The Government of Guam signed the Programmatic Agreement in March 2011 to preserve cultural and historical properties on the island during the build-up in preparation for the transfer of marines, their dependants and support staff as early as 2016.

IV. Budget

20. The budget comprises revenues received by the Government of Guam and federal grants, with the latter generally allocated, on an ad hoc basis, to particular sectors through the Department of the Interior. The territorial Government's operating revenues fall under four classifications: General Fund, Special Funds, Federal Grant-in-Aid and Semi-Autonomous and Autonomous Agencies Operating Funds. According to federal law, all island residents, including military personnel, must pay income taxes to the Guam General Fund and not to the federal Government. The Governor has the power to veto a budget bill; however, the legislature can either override the Governor's veto by a special majority or reconsider the bill.

21. In September 2013, the Governor signed into law the budget for the fiscal year ending on 30 September 2014 but imposed a line-item veto on the amount appropriated for the Office of Finance and Budget. Projected gross revenues for the General Fund were $702.4 million, an amount that was approximately $13.3 million greater than the General Fund revenues identified in the appropriations act for fiscal year 2013 of $689.1 million, an increase of approximately 1.9 per cent. The total General Fund revenue amount that was available for appropriations was $565.6 million; that represented an increase of less than 1 per cent over the amount identified in the appropriations act for fiscal year 2013. Overall Special Funds revenues were projected at $164.7 million and the federal match was projected at $43.7 million.

22. In January 2014, the Office of the Governor submitted its budget plan for fiscal year 2015 to the Guam legislature. Revenue projections amount to $863.8 million, which represents an increase of 7 per cent over the current fiscal year. The budget reflects an improvement in the island's economic outlook for 2015 owing to an increase in construction projects and tourism.

V. Economy

A. General

23. The economy of Guam continues to be based on two main pillars: tourism and the military. The Territory has been attempting to create an environment conducive to the development of other industries, such as financial services, telecommunications and transportation. Manufactured products include textiles and garments, cement and plastics. Re-exports constitute a high proportion of the Territory's exports, which include petroleum products, iron and steel scrap, automobiles, and tobacco and cigars. The main trading partners of the Territory include the United States, Japan, Germany and China.

24. In December 2013, the United States Bureau of Economic Analysis released estimates of the gross domestic product (GDP) of Guam for 2011 and 2012, as well as GDP and compensation estimates by industry for 2011. The estimates indicate that real GDP decreased by 0.6 per cent in 2011 and increased by 0.5 per cent in 2012. In 2011, the decline in real GDP reflected a decrease in private fixed investment and deterioration in the trade balance that was partially offset by growth in spending by the territorial Government. The decrease in private fixed investment reflected a drop in private construction activity, including the suspension of a major residential construction project. The increase in spending by the territorial Government reflected growth in government construction activity. In 2012, the increase in real GDP reflected an improvement in the trade balance that was partly offset by decreases in government spending. The export of services, which consisted mainly of spending by tourists, contributed to economic growth. Both federal and territorial Government spending detracted from growth, as government construction activity fell and compensation of employees decreased.

B. Tourism

25. According to the executive budget for fiscal year 2014, the total number of visitor arrivals in Guam in 2012 was 1,307,796, a 12.8 per cent increase over the 2011 figure and the highest since 2000. The Guam Visitors Bureau projected a 3.8 per cent increase in fiscal year 2013 and another 2.6 per cent increase in fiscal year 2014.

26. Visitor arrivals in Guam will continue to be facilitated by visa waiver programmes implemented in previous years, as well as faster processing of visas for visitors from the mainland of China. Japan has the largest share of tourists in Guam, although the share has been declining somewhat, owing also to the successful expansion of and diversification to other markets. Between December 2012 and December 2013, arrivals to Guam from China increased by 23.6 per cent, arrivals from the Republic of Korea by 15.9 per cent and arrivals from the Russian Federation by 147.8 per cent. Meanwhile, arrivals from Japan decreased by 6.1 per cent.

C. Transport and communications

27. The Territory's road network is just less than 1,000 miles long. Of this, 420 miles are classified as "non-public". Of the 550 miles of public roads, there are approximately 144 miles of primary and some secondary roads. To maintain the territorial highway system, the Government receives funding from the United States Department of Transportation and the Federal Highway Administration.

28. The Port Authority, which is a public corporation and an autonomous agency of the Government of Guam, administers the commercial port facilities at Apra Harbor, which is the entry point for 95 per cent of all goods entering Guam and serves as a trans-shipment centre for Micronesia. In its 2013 report (see para. 16 above), the Government Accountability Office noted that according to the Port Authority of Guam and Department of Defense officials, the Port of Guam was outdated, in need of repair and required expansion in order to support the realignment.

29. The 2030 Guam Transportation Plan, approved by the Guam legislature, became an official component of the island's Comprehensive Development Plan. The Plan, which is a long-term strategy designed to improve the Territory's transportation system, incorporates improvements to roadways and mass transportation, while accommodating pedestrians and bicycles. It also addresses other issues, such as the proposed military build-up.

30. In 2012, the Department of Public Works of the Government of Guam developed the Guam Transportation Improvement Plan for fiscal years 2012 to 2015, in addition to the 2030 Guam Transportation Plan. The Transportation Improvement Plan for 2012-2015 provides a list of near-term projects addressing safety, pavement, bridge conditions and traffic operations in consultation with the Federal Highway Administration and inputs from the public.

D. Water system, sanitation and utilities

31. According to the 2013 report of the Government Accountability Office (see para. 16 above), the water and wastewater treatment systems of Guam have a number of deficiencies as a result of natural disasters, poor maintenance and vandalism. Although the Guam Waterworks Authority has invested more than $158 million in improvements to its water and wastewater systems over the past 10 years, the Authority continues to operate under an order issued by the United States District Court for the District of Guam requiring various treatment and infrastructure improvements because of issues related to compliance with the Safe Drinking Water Act and the Clean Water Act. The potable water system of Guam is currently non-compliant with the Safe Drinking Water Act. According to the Inspector General of the Department of Defense, the wastewater plants in Guam do not meet primary treatment standards and lack sufficient capacity owing to the poor condition of existing assets. The Government Accountability Office, in its report, noted that in terms of supporting the current military presence in Guam, the Authority provided wastewater services to the Andersen Air Force Base (including Northwest Field), the Naval Computer and Telecommunications Station Guam and the South Finegayan navy housing area. However, according to representatives of the legislature of Guam and the Chairman of the Consolidated Commission on

Utilities, the Authority is operating near capacity and is unable to meet any surge in demand related to the realignment without significant infrastructure improvements.

32. The Government Accountability Office also reported that the Guam Power Authority provides all the electricity on the island for both the public and the Department of Defense, which is the Authority's largest customer, accounting for 22 per cent of revenue in 2012. The electric power system of Guam has experienced reliability problems that have resulted in power outages and is dependent on ageing generators approaching the end of their life expectancy. This situation recalled the findings of a 2012 report of the Inspector General of the Department of the Interior, which found that Guam was susceptible to power blackouts and noted that about a quarter of the Guam Power Authority's generation units had been installed before 1976. The conclusion was reached that, should the Authority have to replace its entire ageing infrastructure at once, it would require a large financial investment.

E. Agriculture and fisheries

33. The farming and fishing sectors are relatively well developed. The main types of produce are vegetables, citrus and tropical fruits, coconuts and sugar cane. The various divisions of the Department of Agriculture deal with animal and plant industry, agricultural development, forestry and soil resources and aquatic and wildlife resources.

34. At a 2009 meeting in Hawaii, the Western Pacific Regional Fishery Management Council recommended that the United States Department of Defense and the National Marine Fisheries Service investigate and address the issue of the impact of the ongoing military build-up on local fishing communities and that a mitigation and compensation plan be developed to assist those affected, including in Guam. No follow-up action has been reported thus far.

VI. Social conditions

A. Labour

35. According to the Guam Bureau of Labor Statistics, the unemployment rate in Guam in March 2013 was 13.3 per cent, an increase of 2.6 percentage points from the December 2012 figure of 10.7 per cent and an increase of 1.5 percentage points from the March 2012 figure of 11.8 per cent. In March 2013, the total number of unemployed was 9,730, an increase of 1,670 over March 2012.

B. Education

36. Guam has an extensive public and private education system. The public education system includes the University of Guam and Guam Community College. The Guam Department of Education is responsible for nearly 30,000 students in 41 schools. Approximately 25 private schools, including 2 business colleges, 5 high schools and a number of elementary schools, are mostly affiliated with Roman Catholic and Protestant religious denominations. The Territory receives millions of dollars in federal funding each year to support such programmes as special

education, summer school, the school lunch programme and the after-school Department of Education Extended Day programme.

C. Health care

37. The estimated life expectancy of Guamanians is about 75 years for males and 81 years for females. The Guam Memorial Hospital Authority is the only civilian in-patient medical facility that serves the public sector. The Authority has a capacity of 172 acute-care beds and 30 long-term care beds. The United States Naval Hospital primarily serves the military sector. There are three community/public health centres, one located in the north, one in the south and one in central Guam. Guam has 271 doctors and 92 medical clinics.

38. The Government Accountability Office, in its 2013 report (see para. 16 above), noted that the health system of Guam is undersized. Officials from the Guam Memorial Hospital Authority participating in the supplemental environmental impact statement acknowledged that, using national hospital standards, Guam needed approximately 500 acute-care beds to fully meet the island's needs; the Guam Memorial Hospital Authority, however, provided only 162 such beds. In addition to these infrastructure challenges, officials identified a number of problems related to staffing, including difficulty in recruiting and retaining an adequate number of health-care personnel. The United States Department of Health and Human Services has designated Guam as a medically underserved area, which means that it has too few primary care providers, a high rate of infant mortality, a high rate of poverty and/or a large elderly population. Guam also qualifies as a health professional shortage area, which means that it experiences shortages of primary medical care, dental or mental health providers. Although military personnel and their dependents generally do not use local health facilities, the Government of Guam anticipates that any Department of Defense civilian, any migrant and any construction worker associated with the realignment will be able to use the facilities.

39. According to the World Health Organization Country Cooperation Strategy for Guam 2013-2017, the prevalence of non-communicable diseases in Guam continues to rise. As part of the military build-up, a new military hospital is being built to replace the current one built in 1954, and construction is expected to be completed in 2014. The hospital will have 42 in-patient beds and 6 beds in the intensive care unit.

VII. Environment

40. The Guam Environmental Protection Agency comprises five components: the Administrative Services Division, the Environmental Monitoring and Analytical Services Division, the Environmental Planning and Review Division, the Air and Land Programs Division and the Water Programs Division. Guam continues to experience environmental problems related to the United States occupation during the Second World War and the atomic testing conducted by the administering Power in the Marshall Islands in the 1950s. Additional details can be found in previous working papers. To date, no official reports exist on the continuing high-level radiation spill from the Fukushima Daiichi plant into the Pacific Ocean.

41. As stated in the report of the Guam Comprehensive Economic Development Strategy, the Guam Environmental Protection Agency implements various programmes that monitor the status of the environment on a regular basis. United States Environmental Protection Agency regulations apply to Guam, but in some cases the Territory's own laws are more stringent than those of the United States. Guam is a relatively small and high-density island; hence its marine environment constitutes a key litmus test with respect to the overall environmental impact of human activity on the land. The quality of the marine waters has generally been found to be excellent across all indicators. Soil erosion, which is associated with construction activity or natural erosion, is another area of special concern in southern Guam, since sedimentation has resulted in the destruction of coral reefs in areas adjacent to the mouths of rivers.

42. Solid-waste landfills are another area of concern in Guam, given the limited land area. Problems are being magnified as the standard of living changes and increases in population and industrial activity bring more goods and commodities to the island. In its 2013 report, the Government Accounting Office noted that the existing landfill on Guam is environmentally compliant, has adequate capacity to meet current solid waste disposal needs and has enough expansion capacity to meet future needs related to the realignment. According to the Government of Guam, however, the new landfill cannot be used for certain types of waste, including construction and demolition waste. As a result, meeting organic and realignment-related solid waste disposal needs will require the Government to continue to develop systems to handle waste that cannot be disposed of in the landfill and construct and open new solid waste disposal areas.

43. Thirty-three per cent of the world's cyclones develop in the immediate area around Guam. In addition, according to the Global Assessment of Human-Induced Soil Degradation, the area of degraded soil in the Pacific is extensive. In Guam, major road building on steep slopes has caused erosion, and the resulting sedimentation has killed coral colonies on fringing reefs.

44. Before any marines can relocate to Guam, the Department of Defense must, pursuant to the National Environmental Policy Act of 1969, examine the environmental effects of its proposed actions. Early in December 2012, the Department of the Navy announced that the public scoping assessment for the supplemental environmental impact statement had ended after a three-month period. The Joint Guam Program Office had held three public scoping meetings on Guam and met with more than 240 members of the public, including interest groups, representatives from the Guam legislature, some federal and local agencies and the Office of the Governor of Guam. The final document is expected to be released in 2014, and the record of decision, the final step in the supplemental environmental impact statement process, would be released only in 2015.

VIII. Relations with international organizations and partners

45. Guam has been an associate member of the Economic and Social Commission for Asia and the Pacific since 24 July 1981. The Territory is a member of the Secretariat of the Pacific Community, the Micronesian Chief Executives Summit, the Pacific Basin Development Council, the Pacific Islands Development Programme, the Pacific Asia Travel Association and the South Pacific Regional

Environment Programme. It also participates in the Pacific Islands Applied Geoscience Commission and the Pacific Community Coastal Fisheries Programme. Guam has observer status in the Alliance of Small Island States. In 2011, Guam was granted observer status in the Pacific Islands Forum.

IX. Future status of the Territory

A. Position of the territorial Government

46. Developments regarding discussions on the future status of Guam are considered in section I above.

B. Position of the administering Power

47. In a letter dated 2 November 2006 addressed to the delegate of American Samoa to the United States House of Representatives, the Assistant Secretary of State for Legislative Affairs elaborated on the position of the Government of the United States. In his letter, the Assistant Secretary of State indicated that the status of the insular areas regarding their political relations with the federal Government was an internal United States issue, and not one that came within the purview of the Special Committee. He also noted that the Special Committee had no authority to alter in any way the relationship between the United States and those territories and no mandate to engage the United States in negotiations on their status. He further noted that, at the same time, in accordance with its obligations under the Charter of the United Nations to provide regularly to the United Nations statistical and other information of a technical nature relating to the economic, social and educational conditions in the Non-Self-Governing Territories, the federal Government submitted annual updates on United States Territories to the Special Committee as a demonstration of United States cooperation as an administering Power and as a corrective to any errors in information that the Special Committee might have received from other sources.

X. Consideration by the United Nations

A. Special Political and Decolonization Committee (Fourth Committee)

48. At its 4th meeting, on 8 October 2013, the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly heard a petitioner representing the Chamorro diaspora, Tiara R. Na'puti, who shared information on the three most pressing issues facing the island and demanded action from the United Nations in the context of the Third International Decade for the Eradication of Colonialism. Ms. Na'puti said that in June 2012 the District Court of Guam had ruled that a lawsuit against the planned self-determination plebiscite, seeking to strike down the voters' eligibility restriction, was not ripe for legal discussion. An appeal had been filed, however, resulting in the plebiscite being postponed, pending completion of the Chamorro registry. Regarding self-determination education, Ms. Na'puti spoke about the lack of funding to

educate voters and expressed the hope that the United Nations would provide assistance in that endeavour. Ms. Na'puti also noted the severe impact on the environment and lives of the people of Guam, as well as the region, of the island's militarization by the United States. In conclusion, she stressed that the United Nations should endorse a work programme for decolonization and that the Electoral Assistance Division of the Department of Political Affairs should provide information, facilitating a path towards decolonization for Guam and other territories.

B. Action taken by the General Assembly

49. On 11 December 2013, the General Assembly adopted without a vote resolutions 68/95 A and B on the basis of the report of the Special Committee transmitted to the General Assembly (A/68/23) and its subsequent consideration by the Fourth Committee. Section VI of resolution 68/95 B concerns Guam. In the operative paragraphs of that section, the General Assembly:

1. *Welcomes* the convening of the Guam Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination in 2011 and its work on a self-determination vote, as well as its public education efforts;

2. *Calls once again upon* the administering Power to take into consideration the expressed will of the Chamorro people as supported by Guam voters in the referendum of 1987 and as subsequently provided for in Guam law regarding Chamorro self-determination efforts, encourages the administering Power and the territorial Government to enter into negotiations on the matter, and stresses the need for continued close monitoring of the overall situation in the Territory;

3. *Requests* the administering Power, in cooperation with the territorial Government, to continue to transfer land to the original landowners of the Territory, to continue to recognize and to respect the political rights and the cultural and ethnic identity of the Chamorro people of Guam and to take all measures necessary to address the concerns of the territorial Government with regard to the question of immigration;

4. *Also requests* the administering Power to assist the Territory by facilitating public outreach efforts, including through the funding of the public education campaign, consistent with Article 73 *b* of the Charter, and in that regard calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested, and welcomes the recent outreach work by the territorial Government;

5. *Further requests* the administering Power to cooperate in establishing programmes for the sustainable development of the economic activities and enterprises of the Territory, noting the special role of the Chamorro people in the development of Guam.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)*

Working paper prepared by the Secretariat

Contents

		Page
I.	General	3
II.	Constitutional and political issues	3
III.	Budget	4
IV.	Economic conditions	4
	A. General	4
	B. Fisheries and livestock	5
	C. Tourism	5
	D. Transport, communications and utilities	5
	E. Environment and hydrocarbons	6
V.	Social conditions	7
	A. General	7
	B. Public health	7

Note: The information contained in the present working paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations on 19 December 2013, in addition to information provided by the Government of Argentina and that available in public sources. Further details are contained in previous working papers, available from www.un.org/en/decolonization/workingpapers.shtml.

* A dispute exists between the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland concerning sovereignty over the Falkland Islands (Malvinas) (see ST/CS/SER.A/42).

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C. Social security and welfare 7
D. Education 8
VI. Mine clearance and related matters 8
VII. Participation in international organizations and arrangements 9
VIII. Consideration by intergovernmental organizations and forums 9
IX. Future status of the Territory 10
A. Position of administering Power 10
B. Position of the Government of Argentina 11
X. Consideration by the United Nations 11
A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples 11
B. Special Political and Decolonization Committee (Fourth Committee) 13
C. Action taken by the General Assembly 15

I. General

1. The Falkland Islands (Malvinas) is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland, comprising two large islands, known as East and West Falkland, as well as hundreds of smaller islands, and a total area of about 12,173 km^2. The Islands are situated in the South Atlantic, about 770 km north-east of Cape Horn and about 480 km east of the South American mainland. South Georgia, located about 1,300 km south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 km east-south-east of South Georgia, are administered from the Falkland Islands (Malvinas) as a separate territory; the Governor of the Falkland Islands (Malvinas) acts concurrently as Commissioner for South Georgia and the South Sandwich Islands. The population of the Falkland Islands (Malvinas) is more than 2,500 (not including residents temporarily absent and civilians working in conjunction with the Ministry of Defence), the largest population recorded since 1931. A dispute exists between the Governments of Argentina and the United Kingdom concerning sovereignty over the Falkland Islands (Malvinas), as established by the General Assembly in its resolution 2065 (XX) and subsequent relevant resolutions on the question of the Falkland Islands (Malvinas).

II. Constitutional and political issues

2. The Constitution approved in 2008, which came into force on 1 January 2009 (Statutory Instrument 2008, No. 2846), has been protested by Argentina (see A/63/542, annex I). Under the Constitution, members of the legislature elect a Speaker to preside over sittings of the Legislative Assembly. A Chief Executive is appointed by the Governor in agreement with the Legislative Assembly as head of the public service to implement policy. Questions of policy are considered by the Executive Council, which consists of three members of the Legislative Assembly who are elected annually from their own number, in addition to two ex officio members who have no voting rights. The Attorney General and the Commander of British Forces on the Islands have the right to attend meetings of the Executive Council but do not vote. The United Kingdom-appointed Governor has responsibility for foreign policy and defence. By the terms of the Constitution, the Governor, with the advice and consent of the Legislative Assembly, may make laws for the peace, order and good government of the Territory, while full power to make such laws is reserved for the British Crown.

3. Out of the eight members of the Legislative Assembly, elected on 7 November 2013 for a four-year term, five hail from the Territory's urban constituency (Stanley) and three from the Camp (i.e., outside the Territory's only town). Governor Nigel Haywood took up his duties in 2010 and is expected to be succeeded by Colin Roberts in April 2014. The next general elections for members of the Legislative Assembly are expected to be held in November 2017.

4. In the course of 2013 and early 2014, Argentina and the United Kingdom continued to reiterate their respective positions regarding various constitutional, military and economic aspects of the sovereignty dispute over the Territory. That action included written démarches and the issuance of press releases by Argentina on 10 June in connection with the observance of the "Day of Affirmation of Argentine rights over the Malvinas Islands" and other areas; remarks made by the

President of Argentina in a Security Council meeting in August while her country held the Council presidency and other messages such as a note to the United Nations on 3 January 2014. It also included written démarches and statements by the United Kingdom before the United Nations, such as a letter to the United Nations dated 10 February 2014, and elsewhere, rejecting territorial and other claims made by Argentina and attaching great importance to the principle of self-determination (see A/67/754, A/67/832, A/67/865, A/67/880, A/67/954, A/68/698 and A/68/747).

5. According to the administering Power, on 10 and 11 March 2013 a total of 99.8 per cent of the electorate voted in a referendum to maintain the Islands' current political situation as a British Overseas Territory, with an overall voter turnout of 92 per cent: in its view, the Islanders thus expressed their right to self-determination as granted under Article 1 (2) of the Charter of the United Nations, article 1 of the International Covenant on Civil and Political Rights and General Assembly resolution 2625 (XXV).

6. For its part, Argentina repeatedly rejected the exercise as illegal under the relevant United Nations resolutions on the question of the Falkland Islands (Malvinas) and as a serious distortion of the spirit of self-determination (see also section X.B. below). Argentina's position was supported by other countries and by regional organizations such as the Bolivarian Alliance for the Peoples of Our America (ALBA), the Southern Common Market (MERCOSUR) and the Union of South American Nations (UNASUR), which stated that the referendum in no way changed the essence of the question of the Islands and did not end the sovereignty dispute.

7. Additional information on the respective positions of the administering Power and the Government of Argentina can be found below.

III. Budget

8. The Territory's financial year runs from 1 July to 30 June. According to the administering Power, the 2012/13 operating budget amounted to approximately £54 million. The Territory makes every effort to maintain a balanced budget.

IV. Economic conditions

A. General

9. The gross domestic product (GDP) of the Islands was estimated by the administering Power at £142 million per annum. The per capita GDP is approximately £44,000. The fishing industry remains the most important sector of the economy (accounting for about 60 to 70 per cent of GDP), with the tourism sector and other sectors, such as livestock production and processing, witnessing growth in recent years. The Falkland Islands (Malvinas) has a very low rate of unemployment, which was recorded as less than 1 per cent in 2012, with almost 20 per cent of the people in employment having more than one job. In 2013, the Territory's Infrastructure Development Plan identified key areas that would help to support economic growth. According to the administering Power, the newly elected Legislative Assembly considers the Plan a priority.

B. Fisheries and livestock

10. The Loligo, or *doryteuthis*, and Illex species of squid are the mainstay of the fisheries and economy of the Falkland Islands (Malvinas). According to the administering Power, the Fisheries Department is responsible for administering the sector in the Territory. A November 2013 Oxford Analytica brief states that the Territory's annual income from fisheries amounts to just over $30 million. The acidic and infertile soils of the Islands, coupled with a windy and cool oceanic climate, naturally limit the cultivation of fields and focus the agriculture sector on rearing animals. Wool remains the main land-based export. The Department of Agriculture is responsible for administering the sector, recently promoting the development of a meat industry and of farming adjusted to produce dual-purpose sheep that would maximize returns from both meat and wool. The Territory has an ongoing five-year business plan in support of agriculture. In 2013, 58,000 sheep and lambs were reportedly processed.

C. Tourism

11. Tourism is a significant contributor to the Territory's economy, valued at approximately £9.5 million per year. According to the administering Power, there has been a measurable expansion in the Falkland Islands (Malvinas) tourism sector, with inbound tourism increasing by over 17 per cent in 2012; however, the 2012 cruise season closed with a total of 29,533 passenger arrivals, pointing to a further decline in cruise ship passengers, which has been occurring year on year. During 2013, work was under way to update the Territory's tourism development strategy to help boost sustainable land-based tourism in the Islands.

D. Transport, communications and utilities

12. The Territory has approximately 1,000 km of roads. According to the administering Power, during 2013, work in upgrading roads connecting outlying settlements and farms continued. In addition, a coastal shipping service, a regular ferry service and local air services ensured communications to settlements on the east, west and outlying islands.

13. In 2013, LAN Airlines continued to provide a regular weekly service between Punta Arenas, Chile, and the Falkland Islands (Malvinas), including two monthly stopovers in Río Gallegos, mainland Argentina, in accordance with the provisions of the Joint Statement of 14 July 1999 between Argentina and the United Kingdom. Under the Exchange of Notes Flights and Navigation Agreement of February 2001, private flights are authorized, as are a number of medical evacuation flights from the Falkland Islands (Malvinas) to mainland Argentina and Chile.

14. In February 2010, in response to hydrocarbon-related activities carried out in waters around the Falkland Islands (Malvinas), Argentina issued Presidential Decree 256/2010 requiring authorization measures for vessels calling at Argentine ports or crossing Argentine waters. In this connection, in 2013 and early 2014, at a number of meetings, including the annual meeting of the ministers for foreign affairs of the Group of 77 and China, the Ibero-American Summit of Heads of State and Government, the Caribbean Community (CARICOM) and the Community of Latin

American and Caribbean States (CELAC), in addition to those of MERCOSUR and UNASUR, it was recalled that the General Assembly, by resolution 31/49, had called upon both parties to the dispute to refrain from introducing unilateral modifications in the situation. The members of MERCOSUR and UNASUR had previously decided to close their ports to "vessels flying the illegal flag of the Malvinas Islands". In 2013, implementation of those decisions continued.

15. For its part, during 2013, the United Kingdom continued to consider that the aforementioned Presidential Decree 256/2010 was not compliant with international law, including the United Nations Convention on the Law of the Sea, and to contend that, under international law, the Islanders had the right to develop their economy, including natural resources, for the Territory's benefit. In its communications to the United Nations, the United Kingdom also continued to protest against measures aimed at isolating the Islanders and harming their economy and to express the hope that their wishes would be respected, allowing them to develop their economy and home in peace.

16. Concerning telecommunications, the introduction of Island-wide rural broadband access improved the situation within and outside the Territory. Approximately 75 per cent of households are connected to broadband Internet. With respect to utilities, a major wind farm meets approximately 26 per cent of urban electricity needs. Wind turbines are used in homesteads and small settlements.

E. Environment and hydrocarbons

17. According to the administering Power, the Territory works to uphold a number of environmental treaties and conventions. For its part, Argentina has rejected the territorial application of those treaties and conventions by the United Kingdom on the grounds that the Territory and its surrounding maritime areas are an integral part of Argentina.

18. In 2013, environmental projects included the continued conservation of penguins and seabirds, the eradication of rats from sensitive wildlife sites and a review of the network of protected areas. In early 2014, media and other reports indicated that the Territory lacked baseline standards on development control, such as statutory environmental impact assessments for major developments and strategic development plans.

19. During 2013, offshore exploration for hydrocarbons continued amid protest from Argentina, other Member States and regional organizations (see section VIII below). According to official sources, during 2012 and 2013, the Energy Secretariat of Argentina carried out administrative proceedings against six companies developing unauthorized hydrocarbon exploration activities in the area. As a result, in accordance with section 3 of Law 26.659, the offending companies received a 15- to 20-year ban on operating in the country.

20. Following the joint communiqué issued by the MERCOSUR Presidential Summit held in Montevideo on 12 and 13 July 2013, the Energy Ministers of the Latin American Energy Organization (OLADE) meeting in Punta Cana, Dominican Republic, adopted on 29 November 2013 a decision that highlighted their strongest support for the legitimate rights of the Argentine Republic in the sovereignty dispute over the Malvinas, South Georgia Islands and South Sandwich Islands and the

surrounding maritime areas and the recognition of the right of the Republic of Argentina to take legal actions against unauthorized hydrocarbon exploration and exploitation activities in Argentina's continental shelf.

21. Further, according to official sources, in December 2013, Argentina adopted Law 26.915, which amended Hydrocarbons Law 26.659, introducing criminal definitions and penalties for those engaging directly or indirectly through a third party in any type of hydrocarbon exploration, extraction, transportation and/or storage activities within the Argentine continental shelf without authorization by Argentine authorities. Argentina sent advisory letters to companies directly or indirectly involved in those activities.

22. Also in December 2013, the administering Power expressed its position to Argentina that under international law, the continental shelf did not form part of Argentina; supported the right of the Islanders to develop their natural resources for their own economic benefit as an integral part of their right of self-determination; and rejected the applicability of Argentine domestic legislation to those companies engaged in the Islands' hydrocarbon activities. For its part, Argentina formally rejected that position and protested to the United Kingdom, reaffirming its sovereignty position.

V. Social conditions

A. General

23. According to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The European Convention for the Protection of Human Rights and Fundamental Freedoms and other international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women, have been extended to the Falkland Islands (Malvinas) by the administering Power.

24. For its part, Argentina has consistently rejected the territorial application by the United Kingdom of the various international instruments mentioned above, in addition to the designation of the Territory as an overseas territory of the United Kingdom or any other similar designation.

B. Public health

25. According to information transmitted by the administering Power, the general state of public health in the Territory is good. Medical and dental treatment is free to all residents under a health agreement. There is one hospital in the Territory, which offers modern facilities with medical, dental and nursing staff, but no resident qualified optician. More complex treatments require medical evacuation (see sect. IV.D above).

C. Social security and welfare

26. According to the administering Power, the Falkland Islands Retirement Pensions Ordinance provides for mandatory fixed monthly contributions by all

employers and employees between the ages of 17 and 64. A system of social welfare grants and pensions is in place to address cases of hardship and disability. A minimum wage has recently been introduced. As at December 2013, all employers are required to pay a minimum hourly rate of £5.05 to workers aged 18 or over and £3.10 for workers aged 16 and 17.

D. Education

27. Education in the Territory is free and compulsory for all children between the ages of 5 and 16, with access to preschool (nursery) education from the age of 4. According to the administering Power, in 2013 approximately 425 schoolchildren were registered (42 of whom were based in rural areas). There is a 100 per cent enrolment rate for all children of school age in the Islands. The current teacher/student ratios for primary school and secondary school are 1:24 and 1:13 respectively.

28. According to information provided by Argentina, inhabitants of the Falkland Islands (Malvinas) enjoy equality of access to the Argentine public education system. Additional information on the subject is contained in the 2013 report of the Secretary-General on offers by Member States of study and training facilities for inhabitants of Non-Self-Governing Territories (A/68/66, section II.B).

VI. Mine clearance and related matters

29. Under the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, known also as the Ottawa Convention, States parties are obliged to clear anti-personnel mines in mined areas within 10 years of the Convention's entry into force, unless an extension is granted under the Convention.

30. In November 2008, the Ninth Meeting of States Parties to the Ottawa Convention granted the United Kingdom an extension until 1 March 2019. The United Kingdom proceeded with the clearance of four mined areas in the Territory in 2010 and conducted a three-month follow-up phase of land release in 2012. According to the administering Power, a further project to clear five mine fields was completed in March 2013, while a review of options for additional demining projects began later in the year.

31. As previously reported, in December 2009, the Second Review Conference of the Ottawa Convention granted the request of Argentina for an extension until 1 January 2020. At the Thirteenth Meeting of States Parties to the Ottawa Convention, held in Geneva from 2 to 5 December 2013, Argentina stated that mine-clearing planning would be developed in detail and implemented as soon as it exercised control over the areas in question, subject to a sovereignty dispute, or when both Argentina and the United Kingdom reached agreement over making progress in such planning.

VII. Participation in international organizations and arrangements

32. According to information provided by the administering Power, the Government of the Falkland Islands (Malvinas) attends various Commonwealth forums and is a member of the United Kingdom Overseas Territories Association and the South Atlantic Territories Cooperation Forum. Further, its representatives also participate in other international meetings affecting the Islanders' interests to reflect their own views. In 2013, these included the European Union Forum of the Overseas Countries and Territories Association in Brussels in December 2013 and an international meeting of the Commercial Fisheries Research Foundation held in Rhode Island, United States of America, in October 2013. It is the United Kingdom Government's position that the Islanders attend all meetings affecting their interests in their own right.

VIII. Consideration by intergovernmental organizations and forums

33. During meetings held in 2013 and January 2014, intergovernmental entities, including regional and subregional organizations, such as the Third Africa-South America Summit (Malabo, 22 February 2013), ALBA (Caracas, 10 March 2013), the General Assembly of the Organization of American States (OAS) (Antigua, Guatemala, 4 to 6 June 2013), MERCOSUR (Montevideo, 11 and 12 July 2013), UNASUR (Paramaribo, 30 August 2013), the Group of 77 and China (New York, 26 September 2013), the twenty-third Ibero-American Summit of Heads of State and Government (Panama City, 18 and 19 October 2013), OLADE (Punta Cana, Dominican Republic, 29 November 2013) and the second Summit of CELAC (Havana, 29 January 2014) addressed the question of the Falkland Islands (Malvinas) and, among other things, reaffirmed the need for Argentina and the United Kingdom to resume negotiations to find a peaceful solution to the sovereignty dispute. Most of those organizations rejected the aforementioned hydrocarbon-related and military-related activities of the United Kingdom, while some, including the Ibero-American Summit, CELAC, MERCOSUR and UNASUR, also requested the Secretary-General to renew his good offices on the question and keep them informed.

34. In January 2014, noting that on 26 March 2013, the Presidents pro tempore of CELAC, MERCOSUR and UNASUR, together with the Minister for Foreign Affairs and Worship of Argentina, met with the Chair of the Special Committee and the Secretary-General to reaffirm the regional interest in a resumption of negotiations between Argentina and the United Kingdom over the sovereignty dispute, the CELAC Heads of State and Government expressed support for the good offices mission of the Secretary-General, including information about progress made.

35. For his part, in 2013, the Secretary-General provided oral information on the issue, including in the course of bilateral meetings held in the context of the sixty-eighth session of the General Assembly.

36. The United Kingdom is not a member of the aforementioned organizations and has not been represented at any of the aforementioned meetings, with the exception of that of OAS, where it has observer status. Exercising its right of reply, the United

Kingdom responded to Argentina at the 2013 General Assembly of OAS, reiterating its view of the Islanders' right to self-determination and the importance for the international community of recognizing the March 2013 referendum results. Further, the United Kingdom continued to reject any suggestion that hydrocarbon exploration amounted to unilateral action on its part and was being carried out in contravention of General Assembly resolution 31/49, supported the Islanders in developing their own economy and future, including their decision to exploit their natural resources, and rejected any suggestion that military assets in the South Atlantic were subject to reinforcement or that it was allegedly militarizing the region.

IX. Future status of the Territory

A. Position of administering Power

37. In a statement on 12 March 2013, the Prime Minister of the United Kingdom, David Cameron, referring to the aforementioned Islanders' referendum, reiterated the commitment of the United Kingdom to support and uphold the Islanders' right to self-determination. In his view, the Falkland Islanders had spoken clearly about their future: they wanted to remain British, and that view should be respected by everybody, including by Argentina. In a further statement, the Foreign Secretary, William Hague, said that he welcomed the referendum result, which demonstrated more clearly than ever the Falkland Islanders' wish to remain an Overseas Territory of the United Kingdom. He noted that the United Kingdom had always been clear that it believes in the rights of the Falklands people to determine their own futures and to decide on the path they wish to take. It was only right that, in the twenty-first century, those rights be respected. All countries should accept the results of the referendum and support the Falkland Islanders as they continued to develop their home and their economy, the Foreign Secretary maintained.

38. In addition, in a message to the Islanders broadcast on 20 December 2013, the Prime Minister reiterated that the Government of the United Kingdom would continue to support the Falkland Islands Government in countering the Argentine Government's campaign to claim the Islands' resources and to damage the Islands' economy.

39. In exercise of the right of reply to the remarks made by the President of Argentina in the Security Council on 6 August 2013 and in the General Assembly on 24 September 2013, the Permanent Representative of the United Kingdom, among other things, stated that his Government attached great importance to the principle of self-determination as set out in Article 1 (2) of the Charter and article 1 of the International Covenant on Civil and Political Rights, rejected claims by Argentina that the United Kingdom was militarizing the South Atlantic and confirmed the United Kingdom's commitment to its obligations under the Treaty of Tlatelolco (see A/67/865). In the view of the administering Power, there could be no negotiations on the sovereignty of the Islands unless and until such time as the Islanders so wished.

B. Position of the Government of Argentina

40. The President of Argentina, Cristina Fernández de Kirchner, presiding over a meeting of the Security Council on 6 August 2013 during a high-level open debate on cooperation between the United Nations and regional and subregional organizations in the maintenance of international peace and security, referred in her national capacity as the representative of Argentina to the question of the Falkland Islands (Malvinas).

41. Ms. Fernández de Kirchner stated that there was conflict owing to the failure to respect a resolution of the United Nations concerning the need for her country and the United Kingdom to begin talks and negotiations in the context of what the United Nations decided in resolution 2065 (XX), adopted in 1965, concerning the sovereignty of the Malvinas. In her view, this was not a capricious position, nor was it about saying again "We are right". Argentina was simply saying that it wanted the United Nations resolution to be implemented and that both countries should sit down and discuss this litigious and controversial matter. She believed that there was a way to begin to unblock such conflicts.

42. The speaker went on to say that it had been pointed out that there were differing opinions on this question. One could have such opinions on matters that had not been resolved by the United Nations. However, when the Organization, to which all had signed on and whose resolutions all were committed to respecting, adopted a resolution in the General Assembly — the highest organ of the Organization — it was no longer a matter of differing opinions: it was about a United Nations resolution and about whether or not one was ready to comply with his/her obligations as Members (see S/PV.7015).

43. Further, as reflected in the official records of the sixty-eighth session of the General Assembly, the President of Argentina addressed the forum on 24 September 2013, stating, among other things, that Argentina had been waiting since 1965, when the plenary and many resolutions of the Assembly and the Committee on Decolonization required both Argentina and the United Kingdom to sit down to dialogue. The President went on to say that there was a dispute over the matter of sovereignty over the Malvinas and yet, the United Kingdom had turned a cold shoulder, while militarizing the southern Atlantic region and sending nuclear submarines there (see A/68/PV.7).

44. Additional information on the position of the Government of Argentina can be found in section X.A below.

X. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

45. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 8th and 9th meetings, on 20 and 21 June 2013, as reflected in documents A/AC.109/2013/SR.8 and 9. At its 8th meeting, the Special Committee decided to accede to the requests of the delegations of Angola, Argentina, Brazil,

Colombia, Costa Rica, Cyprus, Dominican Republic, El Salvador, Ghana, Guatemala, Mauritania, Mexico, Namibia, Peru, Spain, Turkey, United Arab Emirates and Uruguay to participate in the Committee's consideration of the item.

46. At the same meeting, during the hearing of petitioners and in line with usual practice, the Special Committee heard statements by Sharon Halford and Mike Summers of the Legislative Assembly of the Falkland Islands (Malvinas), as well as Alejandro Betts and Maria Angélica del Carmen Vernet (see A/AC.109/2013/SR.8).

47. Further, at the 8th meeting, the representative of Chile, also on behalf of Bolivia (Plurinational State of), Cuba, Ecuador, Nicaragua and Venezuela (Bolivarian Republic of), introduced draft resolution A/AC.109/2013/L.7, which the Special Committee adopted without a vote. In the resolution, the Special Committee reiterated that the way to put an end to the special and particular colonial situation in the question of the Falkland Islands (Malvinas) was the negotiated settlement of the dispute over sovereignty, in accordance with the relevant General Assembly resolutions.

48. The Minister for Foreign Affairs and Worship of Argentina, Héctor Marcos Timerman, made a statement at the same meeting of the Special Committee, on 20 June 2013. He stated, among other things, that on 3 January 1833, a British naval force had expelled the legitimate Argentine authorities and population from the Islands and that the colonial dispute remained unresolved, compromising the territorial integrity of Argentina. Mr. Timerman went on to say that in an effort to justify its military presence in the South Atlantic and its illegitimate appropriation of renewable and non-renewable natural resources, contrary to the provisions of resolution 31/49, the British Government continued to invoke spuriously the principle of self-determination and to refuse to engage in dialogue. He expressed the view that the United Nations had always reaffirmed that the principle of self-determination was not applicable to the question as it did not concern a people under alien subjugation. Rather, the matter was a "special and particular colonial situation" owing to the sovereignty dispute between Argentina and the United Kingdom. The Minister for Foreign Affairs and Worship added that the British Government had held a so-called self-determination referendum in which the approximately 1,500 British citizens residing in the Malvinas Islands had predictably voted in favour of preserving the colonial situation, underlining that the initiative had not been called for or approved by the United Nations, and that no States had sent official observers, despite the considerable efforts expended by British diplomats.

49. Continuing, the Minister for Foreign Affairs and Worship stated that many members of the international community supported Argentina's sovereignty rights over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas. In addition to regional organizations such as OAS, CELAC, UNASUR and MERCOSUR, African nations had expressed their support in the Malabo Declaration, adopted in February 2013 at the Third Africa-South America Summit. Moreover, the States attending the Seventh Ministerial Meeting of the Zone of Peace and Cooperation of the South Atlantic, held in Montevideo in January 2013, had called for the resumption of bilateral negotiations, as had the Third Summit of South American and Arab Countries, held in Lima in October 2012.

50. The Minister for Foreign Affairs and Worship concluded by reiterating the offer made by President Fernández de Kirchner to resume the dialogue with the British Secretary of State for Foreign and Commonwealth Affairs without preconditions or demands and asked the Special Committee to request the Secretary-General, in the context of the mission of good offices entrusted to him by the General Assembly, to urge the United Kingdom authorities to resume bilateral negotiations.

51. At the 8th meeting of the Special Committee, the representatives of Cuba (on behalf of CELAC), the Syrian Arab Republic, Venezuela (Bolivarian Republic of), Ecuador, Bolivia (Plurinational State of), Nicaragua, China, the Russian Federation, Saint Vincent and the Grenadines, Sierra Leone, Peru (on behalf of UNASUR), Guatemala, Costa Rica and Brazil also made statements on the question of the Falkland Islands (Malvinas). The Minister for Foreign Affairs and Worship of Argentina made a further statement. At the 9th meeting, on 21 June, the representatives of Uruguay (on behalf of MERCOSUR), Mexico, El Salvador, Colombia, Angola and Papua New Guinea made statements on the same question.

52. On 12 November 2013, the Chair of the Special Committee on Decolonization, Diego Morejón Pazmiño, and Bureau members met with the Secretary-General. According to the official readout of the meeting, among other issues, the Secretary-General noted the importance the Special Committee attached to the question of the Falkland Islands (Malvinas) and, in that regard, reiterated that his good offices remained available if both parties engaged.

B. Special Political and Decolonization Committee (Fourth Committee)

53. On 7, 10, 11 and 14 October 2013, during the debate on decolonization issues in the Special Political and Decolonization Committee (Fourth Committee) of the sixty-eighth session of the General Assembly, the delegations of Argentina, Bolivia (Plurinational State of), Brazil, Chile, Costa Rica, Cuba, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Peru, United Kingdom, Uruguay and Venezuela (Bolivarian Republic of) addressed the question of the Falkland Islands (Malvinas), as reflected in A/C.4/68/SR.3 and 6 to 8.

54. On 7 October, the representative of the Bolivarian Republic of Venezuela, speaking on behalf of the States members of MERCOSUR and the associated States Bolivia (Plurinational State of), Chile, Colombia, Ecuador and Peru, among other things, said that it was currently a particularly propitious time for redoubling international efforts in favour of decolonization, in line with the proclamation of the Third International Decade for the Eradication of Colonialism. In the joint communiqué of MERCOSUR States parties and associated States, adopted on 12 July 2013, the Heads of State and Government, inter alia, reaffirmed the terms of the Malvinas Declaration of 25 June 1996 and those of the Mendoza Declaration of 29 June 2012 pertaining to the "special and particular colonial situation" of the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, and called for a resumption of negotiations between Argentina and the United Kingdom.

55. The representative of Cuba, speaking on behalf of CELAC, among other things, stated that in a 2012 special communiqué (A/67/727, annex) adopted at the

first CELAC Summit, the Heads of State and Government of Latin America and the Caribbean, inter alia, had reaffirmed their support for the legitimate rights of the Argentine Republic in the dispute over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, calling for the resumption of negotiations between Argentina and the United Kingdom. They had reiterated the importance of observing General Assembly resolution 31/49 and had asked the Secretary-General to provide an update on progress in carrying out his mission of good offices.

56. At the same meeting, the Deputy Permanent Representative of Argentina stated, among other things, that General Assembly resolution 1514 (XV) made it clear that more than one form of colonialism existed and established two principles to address the various cases: self-determination and territorial integrity. The speaker went on to say, inter alia, that the dispute over the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas had been recognized in successive resolutions of the General Assembly and the Special Committee on Decolonization as a "special and particular colonial situation", which the sole two parties involved, Argentina and the United Kingdom, must resolve through negotiations, taking into account the interests of the inhabitants of the islands.

57. Any attempt to allow the British population on the islands to arbitrate a dispute to which their own country was a party distorted the right of self-determination of peoples, given that the situation did not involve a people subjugated, dominated or exploited by a colonial Power. Accordingly, the speaker continued, the illegitimate "referendum" unilaterally organized by the United Kingdom in March 2013 in no way changed the essence of the question and did not affect Argentina's undeniable rights of sovereignty.

58. Further, the speaker stated that the United Kingdom was illegally carrying out unilateral activities involving the exploration and exploitation of renewable and non-renewable natural resources in the disputed area in violation of General Assembly resolution 31/49, and conducted military exercises, including the firing of missiles, which ran counter to the maritime safety standards of the International Maritime Organization and the regional policy of consistently seeking a peaceful settlement of the dispute. The speaker elaborated that other regions, too, had spoken out in support of Argentina's position. The Deputy Permanent Representative concluded by reaffirming Argentina's commitment to resolve the sovereignty dispute through dialogue, democratically, and pursuant to the terms of United Nations resolutions (see A/C.4/68/SR.3).

59. On 10 October 2013, the representative of Suriname, speaking on behalf of UNASUR, said that the military presence and exercises of the United Kingdom in the Malvinas Islands, South Georgia Islands and South Sandwich Islands and the surrounding maritime areas, as well as its other unilateral activities, including exploration and exploitation of Argentina's natural resources in violation of resolution 31/49 contravened the UNASUR peaceful settlement policy. She went on to say that the unlawful referendum conducted by the United Kingdom in the Malvinas Islands in March 2013 had in no way changed the essence of the issue, nor had its outcome ended the sovereignty dispute. The speaker concluded by saying that, in 1985, the General Assembly had rejected by a large majority the

incorporation of the principle of self-determination in the resolution it had adopted concerning the question of the Malvinas Islands (see A/C.4/68/SR.6).

60. For his part, on 11 October 2013, the representative of the United Kingdom, among other things, stated that the British Government's relationship with its Overseas Territories, including the Falklands, was a modern one based on partnership, shared values and the right of the people of each Territory to determine whether it should remain linked to the United Kingdom. Where a Territory chose to remain British, the United Kingdom would maintain and deepen its special relationship with it.

61. The speaker went on to say that his Government had been working closely with its Overseas Territories to further develop its partnerships with them. Since the publication of a policy paper entitled *The Overseas Territories: Security, Success and Sustainability*, it had established an Overseas Territories Joint Ministerial Council, which included the Territory leaders and met annually to review and implement the strategy and commitments set out in the White Paper. The first Joint Ministerial Council, held in December 2012, had issued a detailed communiqué in which the United Kingdom and its Territories had explained the nature of their relationship and expressed their view that the General Assembly should remove Territories that wished to maintain their links with the United Kingdom from the list of Non-Self-Governing Territories. The speaker added that the United Kingdom welcomed the referendum held in the Falkland Islands in March 2013, in which 99.8 per cent of people had voted for their Territory to remain a British Overseas Territory (see A/C.4/68/SR.7).

62. Speaking in exercise of the right of reply, the representatives of Argentina and of the United Kingdom reiterated their Governments' respective positions a number of times during the deliberations of the Fourth Committee (see A/C.4/68/SR.3, 6 and 8).

C. Action taken by the General Assembly

63. By resolution 58/316, the General Assembly decided that the item entitled "Question of the Falkland Islands (Malvinas)" would remain on the agenda for consideration upon notification by a Member State. As at the date of the issuance of the present working paper, no such notification by a Member State to the Assembly had been received.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

New Caledonia

Working paper prepared by the Secretariat

Contents

		Page
	The Territory at a glance	3
I.	Constitutional, political and legal issues	5
II.	Budget	7
III.	Economic conditions	8
	A. General	8
	B. Mineral resources	8
	C. Construction and manufacturing	9
	D. Agriculture and fisheries	9
	E. Transport and communications	9
	F. Tourism and environment	9
IV.	Social conditions	10
	A. General	10
	B. Employment	11
	C. Education	11

Note: The information contained in the present working paper has been derived from public sources, including those of the territorial Government and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter. Information was transmitted by the administering Power on **8 January 2014**. Further details are contained in previous working papers available from www.un.org/en/decolonization/workingpapers.shtml.

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D. Health care 12

V. Relations with international organizations and partners 12

VI. Position of the administering Power 14

VII. Consideration of the question by the United Nations 15

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples 15

B. Special Political and Decolonization Committee (Fourth Committee) 15

C. Action taken by the General Assembly 17

Annex

Eleventh meeting of the Committee of Signatories of the Nouméa Accord 18

The Territory at a glance

Territory: New Caledonia is a Non-Self-Governing Territory under the Charter of the United Nations. It is administered by France.

Representative of administering Power: Jean-Jacques Brot, French High Commissioner (since 27 February 2013).

Geography: Located in the Pacific Ocean, about 1,500 km east of Australia and 1,700 km north of New Zealand. It comprises one large island, known as Grande Terre, and smaller islands known as the Loyalty Islands, the Bélep Archipelago, the Isle of Pines and the Huon Islands. There are also several uninhabited islands to the north of the Loyalty Islands.

Land area: 18,575 km² (the Territory as a whole); 16,750 km² (Grande Terre).

Exclusive economic zone: 1,422,543 km².[a]

Population: 260,000 (January 2013).

Ethnic composition: 40.3 per cent Melanesians, mainly Kanaks; 29.2 per cent persons of European origin, mainly French; 8.7 per cent Wallisians and Futunians; 2 per cent Tahitians; 1.6 per cent Indonesians; 1 per cent Vietnamese; 0.9 per cent Vanuatuans; and 16.2 per cent populations classified by the French National Institute of Statistics and Economic Studies as "others".

Languages: The official language is French. About 27 Kanak vernacular languages are spoken in geographically distinct regions.

Capital: Nouméa, located in the south of Grande Terre.

Head of territorial Government: Harold Martin (since June 2011).

Main political parties: The anti-independence parties are Rassemblement-Union pour un mouvement populaire (Rassemblement-UMP); Calédonie ensemble; L'avenir ensemble; and Rassemblement pour la Calédonie. The pro-independence parties are Front de libération nationale kanak et socialiste (FLNKS); Parti travailliste; Union Calédonienne; and Parti de libération kanak (Palika).

Elections: The most recent senatorial elections were held in 2012. The next municipal and provincial elections will take place on 23 and 30 March and 11 May 2014.

Legislature: Congress of New Caledonia.

Gross domestic product (GDP) per capita: $37,124.

Unemployment rate: 14 per cent (total unemployed as a percentage of the workforce in 2011).

Economy: Mining industry (notably nickel), construction and tourism.

Monetary unit: CFP franc.

Brief history: In 1774, the British captain James Cook discovered Grande Terre and named it "New Caledonia". France annexed New Caledonia on 24 September 1853. In 1942, the United States of America chose New

Caledonia for its military base in the Pacific. Some 20,000 New Zealand soldiers were stationed in New Caledonia during the Second World War. In 1946, France made New Caledonia an overseas Territory with limited autonomy. In the 1970s, supporters of independence were highly active, leading to violence during the 1980s known as the "événements" (events). In 1988, the Matignon Accords led to the establishment of three provinces with the aim of restoring the balance of power. Some 10 years later, in 1998, the Nouméa Accord planned for the progressive autonomy of the Territory. A referendum will be conducted between 2014 and 2018 to decide whether New Caledonia should assume full sovereignty and independence.

"*Source*: Exclusive economic zone data from the "Sea Around Us" project, a collaboration between the University of British Columbia and the Pew Environment Group (see www.seaaroundus.org).

I. Constitutional, political and legal issues

1. New Caledonia is a sui generis community within the French Republic, governed under part XIII of the Constitution ("Transitional provisions pertaining to New Caledonia"). The French Minister for Overseas Territories, Victorin Lurel, exercises the State's authority in New Caledonia, in accordance with the Territory's status and organization. The administering Power is represented in the Territory by a High Commissioner. This position is currently held by Jean-Jacques Brot. Under the Organic Law of 19 March 1999 concerning New Caledonia, France has powers over areas prescribed by law, including external relations, immigration and aliens, currency, the Treasury, trade, defence, justice, the civil service and maintenance of law and order. In the area of defence, the High Commissioner performs functions prescribed by the relevant legislation. The High Commissioner may declare a state of emergency as provided for under the relevant legislation; he or she shall refer the matter to the Minister for Overseas Territories after informing the Government of New Caledonia. Under the territorial structure, the Office of the High Commissioner in the Territory is the seat of the defence sector of New Caledonia. Some 3,000 French military personnel, including members of the gendarmerie, are stationed in the Territory.

2. The Territory's legal system is based on the French model, augmented by mandatory consultation with the consultative customary council. Magistrates preside over the decentralized lower courts. The Court of Appeal is located in Nouméa, and there is access to the Court of Cassation in France in certain matters.

3. The Kanak independence movement was launched in the 1970s in response to the process of decolonization in Africa and increasing French migratory flows. In 1984, the Front de libération nationale kanak et socialiste (FLNKS) was founded as an umbrella organization for the pro-independence parties, and later that year it established a provisional independent Government. Between 1984 and 1988, about 80 people died in violent confrontations between pro- and anti-independence elements. The violence was eventually halted with the conclusion of the Matignon Accords on 26 June 1988 between FLNKS, the loyalist Rassemblement pour la Calédonie dans la République (RPCR) and the Government of France.

4. The Matignon Accords provided for greater local autonomy and substantial aid designed to redress deep inequalities between the French and Kanak communities, while committing the Territory to a self-determination referendum 10 years later. In 1998, the three Matignon Accords partners agreed on a new statute defining the Territory's institutions and its relations with France. The agreement, termed the "Nouméa Accord", steered a middle course between the respective political aspirations of RPCR and FLNKS and avoided the need for a divisive referendum on independence. It was signed on 5 May 1998 and approved by 72 per cent of New Caledonians in a referendum held on 8 November 1998. The Accord was subsequently ratified by the National Assembly and the Senate of France. New Caledonia is now defined as "a French overseas sui generis community" within the French Constitution and has enhanced autonomy.

5. Section 1.5 of the Nouméa Accord provides that: "The identifying signs of the country, such as its name, flag, anthem, motto and banknote designs, shall be jointly devised in order to express both the Kanak identity and the future to be shared by all". On 18 August 2010, the Congress of New Caledonia approved three out of five

identifying signs around which New Caledonia could unite — an anthem, a motto and banknote designs — but failed to agree on a name and a flag. On 13 July 2010, the Congress of New Caledonia expressed the wish that the Kanak flag and the French flag should fly together in New Caledonia. This wish has no binding legal force; each local authority remains free to apply it or not. On 17 July 2010, the Prime Minister, François Fillon, on an official visit to the islands, raised the Kanak flag and the French flag together for the first time at the headquarters of the High Commissioner of the Republic, in the presence of local authorities. The new banknotes bearing the designs expressing the Kanak identity were issued on 20 January 2014.

6. The Nouméa Accord commits France to transferring responsibility for certain areas of government, except sovereign powers, to the Government of New Caledonia between 1998 and 2018. At some point between 2014 and 2018, a referendum is to be held on the basic issues: the transfer of sovereign powers; access to an international status of full responsibility; and the organization of citizenship by nationality. The exact date of the referendum will be determined by three fifths of the members of the territorial Congress. Should the outcome of the first referendum be negative, one third of the members of the Congress may call for the holding of two more referendums. If the response from all of them is negative, the parties to the Accord will meet to consider the situation thus created. The full text of the Nouméa Accord is contained in the 1998 working paper (A/AC.109/2114, annex).

7. New Caledonia has a 54-member Congress, comprising the combined elected membership of the three provincial assemblies (15 from the North Province, 32 from the South Province and 7 from the Loyalty Islands Province).

8. The Government of New Caledonia represents the executive power of New Caledonia and is headed by a president, who is elected by Congress and answerable to it. The Nouméa Accord stipulates that the Government, as a collegial body, must proportionally reflect party representation in the Congress. The President is elected by a majority vote of all members of Government.

9. In accordance with the Nouméa Accord, a parallel set of institutions was established to accommodate full political recognition of the Kanak identity. There are eight customary councils representing eight customary regions. In addition, a Territory-wide customary senate with a rotating presidency comprises 16 members, 2 selected by each customary council. The customary senate and councils are to be consulted by the executive and legislative bodies of New Caledonia on matters related directly to the Kanak identity. These bodies have no budget, however.

10. Political parties in New Caledonia are divided between those favouring New Caledonia's remaining part of France and those favouring independence, with a number of nuances within each position. The 2009 election resulted in a Congress of 31 members of anti-independence parties, 23 members of pro-independence parties and one independent. The anti-independence parties currently represented in Congress are Rassemblement-Union pour un mouvement populaire (Rassemblement-UMP), with 13 seats; Calédonie ensemble, with 10 seats; L'avenir ensemble, with 6 seats; and Rassemblement pour la Calédonie, with 2 seats. The pro-independence parties of the legislature comprise Union nationale pour l'indépendance (including Parti de libération kanak), with 6 seats; FLNKS/Union calédonienne, with 12 seats; Parti travailliste, with 4 seats; and Libération kanak et socialiste, with 1 seat. Roch

Wamytan (FLNKS) was elected President of the Congress on 8 August 2013, succeeding Gérard Poadja (Calédonie ensemble).

11. The twelfth Government, drawn from the new Congress on a proportional basis, has 11 members, comprising 7 members of anti-independence parties (Calédonie ensemble, Rassemblement-UMP-Avenir ensemble) and 4 pro-independence members of Union calédonienne, Parti de libération kanak, Parti travailliste and Uni-Palika. Harold Martin (L'avenir ensemble) was elected President and Gilbert Tyuienon (FLNKS-Union calédonienne) was elected Vice-President.

12. New Caledonians also vote in the French presidential elections and elect two members of the French Senate and two members of the French National Assembly. The 2012 legislative elections weakened Rassemblement-UMP, the historical anti-independence party, which lost its two National Assembly seats to Calédonie ensemble, causing a split among the anti-independence parties and within Rassemblement-UMP itself.

13. In his political statement at the beginning of the 2012 meeting of the Committee of Signatories, which was distributed to the members of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples on 13 February 2013, Mr. Roch Wamytan, First Vice-President of the Congress of New Caledonia and a signatory of the Nouméa Accord, stated that the question of the right to vote in provincial elections and the final referendum should not be subject to any ambiguity. Hundreds of Kanak voters were on the supplementary roll, while attempts were being made to include non-citizens on the special electoral roll. A partial reform was absolutely necessary, mandatory and urgent with regard to the electoral roll for the provincial elections, as well as for the establishment of the electoral roll relating to the final referendum. Further details are provided in the previous working paper (A/AC.109/2013/16).

14. At the Caribbean regional seminar on decolonization, held in Quito from 28 to 30 May 2013, the President of the Congress of New Caledonia presented a paper on decolonization and the right to vote, detailing the problems encountered in the compilation and review of electoral rolls constituting the special electorates for the provincial elections and the referendum on self-determination. These challenges include questions of procedure and the interpretation of legal documents in the administrative committees engaged in the review of the special electoral roll. The committees have received neither the training needed nor the necessary tools, such as the 1998 supplementary roll. Moreover, no training or information campaigns have been carried out for the Kanak people. The paper also addressed the policy of France, the Pacific nature of New Caledonia and recommendations on the role of the United Nations in ensuring respect for the right to self-determination and independence of colonial peoples. The paper is available at www.un.org/en/decolonization/regsem2013.shtml (in English only).

II. Budget

15. According to the administering Power, the overall 2014 budget for New Caledonia is 11 per cent higher than the 2013 budget, reaching 178 billion CFP francs, including 68.1 billion for the central administration of the Territory. The budget was drafted against the backdrop of a difficult economic situation, marked

by the crisis in the nickel industry and the conclusion of major engineering projects (industrial, public works, private homes). The territorial Government is thus facing the need both to ensure its own financial stability, following a drop in tax revenues, and to participate more actively in economic recovery.

16. Thus, through frugal management of general recurrent expenses (–1.5 per cent) and transfers (–5 per cent), New Caledonia is increasing its investment by 18 per cent compared to 2013, focusing on four broad areas: school renovations, investments in roads, updates to the aviation infrastructure and construction of the Medipole Hospital. Other sectors, however, have not been overlooked, as shown by the priority actions taken to address the high cost of living, sustainable development, the digital economy, continuing professional education and culture.

17. The secondary budget for transfers (earmarked fiscal revenues) has been set at 50,023,992,160 CFP francs. This represents an increase of 4 per cent over the 2013 level.

III. Economic conditions

A. General

18. New Caledonia has one of the largest economies of the Pacific islands, with a gross domestic product (GDP) per capita estimated at $38,690 in 2011, higher than that of New Zealand, according to the United Nations Statistics Division. This is largely owing to the preponderance of nickel mining and processing in the island's economy. Nickel production accounts for approximately 95 per cent of total export earnings. There are significant geographic disparities in income distribution, however, as the South Province accounts for 85 per cent of household income, the North Province for 11.1 per cent and the Loyalty Islands Province for only 3.9 per cent. The economy is also highly dependent on payments from the French Government. Approximately 80 per cent of those payments are spent on health, education and civil service salaries, with most of the remainder allocated for development schemes, mainly in the North and Loyalty Islands provinces. The Territory runs a significant trade deficit caused by the increased value of imports.

B. Mineral resources

19. New Caledonia has about one quarter of the world's known nickel reserves. Cobalt is also mined commercially, and deposits of iron, copper and gold have been found. New Caledonia is the only South Pacific economy that is predominantly based on mining. According to the administering Power, nickel extraction is carried out by so-called "small-scale miners", who may or may not be owners of mining claims in an industry based on four major entities: Le Nickel, Nickel Mining Company, Vale Nouvelle-Calédonie and Koniambo Nickel. During the first half of 2013, mining output was almost 5 million tons of raw minerals (an increase of 23 per cent over the same period in 2012). Approximately 34,000 tons of nickel were extracted. The mining sector employs some 3,700 persons (as of the second quarter of 2013). Sophisticated industries and services support the mining sector, thereby providing some employment opportunities.

C. Construction and manufacturing

20. The construction sector, which accounts for roughly 12 per cent of GDP, employs about 9 per cent of the salaried population. Construction projects in the mining industry continue to provide a platform for growth. There is still a need for approximately 1,000 new homes per year throughout the Territory.

21. The manufacturing sector, which is largely focused on the processing of foodstuffs, textiles and plastics, accounts for approximately 13 per cent of GDP.

D. Agriculture and fisheries

22. Officially, agriculture employs 2 per cent of the population and represents 1.5 per cent of GDP, although it forms the basis of much of the indigenous population's subsistence economy. The raising of beef cattle on the west coast (mostly by farmers of European descent), pig farming and the export of venison to Europe are the most important cash-producing agricultural activities. Tuna fishing and shrimp farming also contribute to export earnings. Agricultural production in most areas is heavily subsidized and prices are controlled. Agricultural output is hampered by labour diversion to the more lucrative mining industry and climate factors. As a result, there is a heavy reliance on imports to meet demand.

E. Transport and communications

23. The Territory has a good road system in and around Nouméa. The road infrastructure in the rest of the Territory is more basic, but continues to improve. New Caledonia has about 5,000 km of roads, of which about half are surfaced. Overseas shipping is predominantly through Nouméa. There are passenger and cargo services and a harbour for yachts and other leisure watercraft. The Territory relies heavily on air transport for both international and internal movement of passengers and freight. Frequent international flights link Nouméa's airport, La Tontouta, with neighbouring countries and with Japan, the United States of America and Europe. There are regular services from the domestic airport, Magenta, to the outer islands and major towns on the main island. The second phase of the airport renovations (at a cost of 80 million euros) was completed in the first quarter of 2013.

24. Postal services and telecommunications are run by the State company Office des Postes et Télécommunications. A submarine cable network connection between the Territory and Australia, brought into service in 2008, has significantly increased the Territory's network capacity. Internet facilities and usage have grown rapidly in recent years but, as in other areas, statistics are lacking. Mobile telephone subscriptions are on the rise, but coverage continues to stand at less than 50 per cent of the Territory, and is largely concentrated in the coastal areas.

F. Tourism and environment

25. Tourism accounts for approximately 3 per cent of GDP. According to the French National Institute of Statistics and Economic Studies, approximately 10,000 tourists travelled to New Caledonia in November 2013, which represented a

decrease of 7.4 per cent from November 2012 and of 7.6 per cent from November 2011. Tourists from all parts of the world arrived in fewer numbers, except those from Europe (+15.6 per cent) and New Zealand (+0.2 per cent). Cumulatively, since January 2013, the volume of tourists has decreased by 3.8 per cent compared to 2012 and 3.4 per cent compared to 2011. The reduction in tourism from Australia (–11.9 per cent) and Japan (–11.4 per cent) is no longer being adequately offset by the increase in tourism from France (+1.9 per cent).

26. New Caledonia has tremendous biodiversity and possesses the second largest coral reef in the world after Australia. Its lagoon has been declared a United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage site. A report released by Conservation International in February 2011 expressed concern over the negative impact of nickel mining and deforestation on the unique flora and fauna of New Caledonia. The Territory is ranked second among the world's 10 most threatened forest hotspots. Only 5 per cent of the original forest cover remains intact.

27. Deforestation also threatens many endemic species, including various plants and birds. For example, the kagu (*Rhynochetos jubatus*) is the only surviving member of the bird family Rhynochetidae, and probably the most well known of the Territory's native birds. New Caledonia is also home to one of the world's largest geckos, the New Caledonian giant gecko (*Rhacodactylus leachianus*).

IV. Social conditions

A. General

28. United Nations Development Programme data for New Caledonia show that the Territory has a high human development index. The adult literacy rate is over 96 per cent and school enrolment (all levels) is about 89 per cent. Nevertheless, according to the French National Institute of Statistics and Economic Studies, the Territory suffers from several types of inequality and imbalances, including in the social and economic spheres. Approximately 71 per cent of the population is concentrated in the South Province. Including the suburbs of Nouméa, the Greater Nouméa metropolitan area is home to 63 per cent of the population. The population density in the South Province is 23.4 inhabitants per km^2 (999.7 inhabitants per km^2 in Nouméa), compared to only 4.6 inhabitants per km^2 in the North Province and 11.1 inhabitants per km^2 in the Loyalty Islands Province.

29. It is also estimated that 66 per cent of the population aged 14 years and over living in the North and Loyalty Islands provinces has no professional qualifications, compared to 35 per cent in the South Province. With regard to economic imbalances, as described in paragraph 18 above, household income varies significantly by province. The Gini coefficient, which measures income inequality, is 0.5.

30. Following demonstrations against the high cost of living in May 2011, a special committee was established in the Congress to draft economic and social agreements and to monitor their implementation. The committee's discussions led to the signature of economic and social agreements on 12 June 2012 by the members of Congress and a federation of labour unions formed to protest the high cost of

living, in the presence of the French High Commissioner. Dissatisfied with the progress made in the implementation of the agreements, the federation called another general strike from 15 May 2013. The strike ended with the signature of a protocol on 27 May, after three days of negotiations. The implementation of the protocol is monitored by a committee which meets regularly under the auspices of the High Commissioner. In parallel, the High Commissioner entered into negotiations with the banks with a view to reducing bank fees. An agreement on this matter was concluded on 23 December 2013.

B. Employment

31. Regional disparities are also clearly evident in the labour market, with the number of unemployed particularly high in the North Province. Since the Koniambo Nickel SAS plant in the North Province gradually began operations in 2012, it has generated some 8,000 new jobs, directly and indirectly, many of them for the local population. The Government of New Caledonia has indicated that it has no statistics confirming high levels of unemployment among Kanaks. Local law (*loi du pays*) No. 2012-9 of 27 July 2010 on the protection and promotion of and support for local employment came into force with the appointment of the members of the Joint Local Employment Board at the beginning of February 2012. The law stipulates that, as a rule, New Caledonian citizens shall be hired. If no citizen is as well qualified as other applicants, the employer must recruit a candidate who can demonstrate a sufficient length of residency.

32. Kanak representatives continue to express concern over the influx of immigrant labour to New Caledonia. The Government of New Caledonia has acknowledged this fact, while specifying that the immigration included highly qualified labour, as well as technicians and managers not available in the domestic labour force. Furthermore, the duration of stay was limited to 18 months for the first category and to four years for the second category. According to the Government of New Caledonia, three quarters of the guest labour force of the nickel plant in the South Province has already left the Territory. The Government plans to provide vocational training for New Caledonians with the aim of allowing them to occupy 95 per cent of jobs created in the metallurgical industry in the future.

C. Education

33. The Organic Law of 19 March 1999 transferred control of public primary education to the New Caledonian authorities, giving them the right to adapt the curriculum to local cultural and linguistic backgrounds, including instruction in the Kanak languages. Five agreements were signed in October 2011 between the administering Power and the Government of New Caledonia to organize the transfer of secondary education to the Territory, with the transfer officially taking place on 1 January 2012.

34. Several research institutes, based mainly in Nouméa, are concentrating on studies on biodiversity, environment, biology and geology, nickel, oceanography, history, anthropology, sociology and linguistics of the Kanak languages.

D. Health care

35. In 2010, life expectancy at birth was 74.4 years for males and 80.7 years for females. According to the World Health Organization country health information profile, New Caledonia has a well-functioning mother and child health programme. Communicable diseases remain a public health problem and sexually transmitted infections are highly prevalent. Non-communicable diseases constitute a major burden, with cardiovascular diseases, diabetes mellitus and cancers the most common.

36. At the territorial level, there are three public hospitals (492 beds), three private clinics (178 beds) and four specialized hospitals (184 beds) in Nouméa. According to the administering Power, construction began in 2011 on a new hospital close to Nouméa, following approval by the Congress of New Caledonia of a $530-million project expected to take four years. At the provincial level, integrated public health-care services are provided through seven medical social centres with 42 hospital beds, 19 medical centres, 14 infirmaries, 55 consultation facilities and 22 dental care stations.

V. Relations with international organizations and partners

37. The Organic Law of 19 March 1999 governs the legal framework within which New Caledonia may establish external relations. New Caledonia has been an associate member of the Economic and Social Commission for Asia and the Pacific since 1992. In 2006, it became an associate member of the Pacific Islands Forum, having been an observer since 1999. To give impetus to the Nouméa Accord, New Caledonia intends to become a full member. In the communiqué of the 2010 meeting of the Pacific Islands Forum, the Forum leaders agreed to address the matter following a gradual process coordinated with the secretariat of the Forum. In the communiqué of the forty-fourth meeting, held in 2013, they endorsed the recommendations made following the visit by a ministerial committee of the Forum to New Caledonia in July that year. The ways and means through which New Caledonia can become a member are being identified.

38. The second Melanesian Spearhead Group high-level ministerial mission was conducted from 13 to 18 August 2012 as part of the annual monitoring and assessment of the Nouméa Accord. The mission met with government authorities in New Caledonia, including the French High Commissioner, the Government and Congress of New Caledonia, and other institutions such as the customary senate, the economic and social council of New Caledonia, customary chiefs and the provincial assemblies of the Loyalty Islands Province, North Province and South Province. The mission noted that five powers were to be transferred under the Nouméa Accord and that there was a need for greater awareness of the process leading up to the 2014-2018 referendum, as well as clear guidelines for that process. The mission also noted that the role of the Special Committee on decolonization was not fully understood in the Territory. In 2013, FLNKS formally took over as Chair of the Melanesian Spearhead Group at a ceremony held in Nouméa.

39. A FLNKS unit was officially opened at the headquarters of the Melanesian Spearhead Group secretariat in Port Vila, Vanuatu, in February 2013. The unit will provide strategic advice on political developments in New Caledonia, oversee

implementation of the Nouméa Accord, maintain contact with the FLNKS political bureau on Melanesian Spearhead Group issues, coordinate and manage meetings of Melanesian Spearhead Group bodies on matters relating to FLNKS and manage the high-level technical and ministerial missions conducted in New Caledonia, among other tasks.

40. Furthermore, New Caledonia is a member of the Pacific Community, the Pacific's oldest regional organization, whose secretariat is headquartered in Nouméa. Among other Pacific regional arrangements in which New Caledonia is involved are the South Pacific Regional Environment Programme, the Pacific Islands Development Forum, the Pacific Islands Association of Non-Governmental Organisations, the South Pacific Tourism Organization and the Pacific Power Association. The twenty-third Conference of the parties to the South Pacific Regional Environment Programme was held in Nouméa in 2012 under the chairmanship of New Caledonia. In 2013, New Caledonia hosted the second Pacific Youth and Sports Conference and the third Meeting of the Pacific Ministers of Youth and Sport.

41. New Caledonia has continued to strengthen its ties with the European Union, with which it holds the status of associated territory as conferred by the Treaty of Rome. It receives development aid from the European Union in the framework of the tenth European Development Fund for the Overseas Countries and Territories. Four major developments in relations between New Caledonia and the European Union occurred in 2013:

(a) A new decision on the association of the overseas countries and territories with the European Union, based on the three new priority objectives of promoting cooperation, reducing vulnerability and enhancing competitiveness, was formally adopted by the Council of the European Union on 25 November 2013 and entered into force on 1 January 2014. The views expressed by New Caledonia to the French authorities and passed on by those authorities during the Council's negotiations were largely reflected in the final text adopted by the Council. The decision marks the start of a new phase of even stronger relations between New Caledonia and the European Union;

(b) A significant increase was obtained in the financial envelopes for overseas countries and territories under the eleventh European Development Fund, which covers the period from 2014 to 2020;

(c) The outcome of the negotiations was also positive with regard to the horizontal programmes, because the eligibility of the overseas countries and territories for the set of programmes comprising the Programme for the Environment and Climate Action (LIFE), the European Union Framework Programme for Research and Innovation (Horizon 2020) and the European Union programme for education (Erasmus) was confirmed. These programmes are important for the overseas countries and territories. They supplement the small envelopes of the European Development Fund, which are insufficient for the implementation of projects in a wide range of areas;

(d) Lastly, another positive development in 2013 was the maintenance of the European Union office in Nouméa.

At the twelfth Overseas Countries and Territories-European Union Forum, held in Brussels on 5 and 6 December 2013, the President of the Government of New

Caledonia expressed his satisfaction with the overall progress made in 2013: the modernization of the relationship between the European Union and the overseas countries and territories through the new overseas association decision; the eligibility of the overseas countries and territories for European Union horizontal programmes; and the maintenance of the European Union office in Nouméa.

42. In January 2012, the French Minister for Cooperation, the French Minister for Overseas Territories and the President of the Government of New Caledonia signed a convention related to the hosting of New Caledonian delegates in the French diplomatic and consular missions in the Pacific. This convention is part of the implementation of the Nouméa Accord and the Organic Law of 19 March 1999 regarding the possibility of New Caledonia's having representation in countries of the Pacific region. The first delegate for New Caledonia, accommodated within the French Embassy in New Zealand as from the end of 2012, was appointed on 27 April 2012.

VI. Position of the administering Power

43. The eleventh meeting of the Committee of Signatories was held in Paris on 11 October 2013 under the chairmanship of Jean-Marc Ayrault, Prime Minister, in the presence of Victorin Lurel, Minister for Overseas Territories. (The full statement of conclusions is included as an annex to this report.) This Committee brings together the historical signatories of the Nouméa Accord, the delegations of pro-independence and anti-independence partners, and major local institutional leaders to take stock of the actions taken and to set the course for the future. Negotiated following the 1988 Matignon Accords and signed on 5 May 1998 in Nouméa, the Nouméa Accord provides for the transfer of certain powers from the State to New Caledonia in many areas, with the exception of defence, security, justice and currency. It has opened a genuine process of decolonization, the culmination of which will be the referendum on self-determination for New Caledonia to be held between 2014 and 2018, through which the future institutional status of this Territory will be determined.

44. The eleventh meeting of the Committee of Signatories gave the Prime Minister an opportunity to reiterate that the State would remain fully engaged with its New Caledonian partners and would support New Caledonia's progress towards the destiny it would choose in accordance with the Nouméa Accord. All topics were discussed in a constructive spirit. In particular, the mission responsible for considering the institutional future of New Caledonia introduced a discussion paper based on its work over the last three years. It presented four possible institutional options to give effect to the Nouméa Accord. The discussion paper, with the full agreement of all partners, was widely disseminated. On the issue of the transfer of powers, the State confirmed its involvement, whether in funding the construction of two secondary schools in Mont-Dore and Pouembout or in supporting New Caledonia in the lead-up to its assumption of responsibility for civil defence as from 1 January 2014. Lastly, the Government presented concrete proposals to the Committee to strengthen the training of New Caledonian officials. All the Nouméa Accord partners agreed to meet in the second half of 2014, after the elections.

VII. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

45. At its 9th meeting, held on 21 June 2013, the Special Committee on decolonization adopted a draft resolution introduced by the representative of Papua New Guinea on behalf of his country and Fiji (A/AC.109/2013/L.12).

B. Special Political and Decolonization Committee (Fourth Committee)

46. At the 7th meeting of the Fourth Committee, held on 11 October 2013, the Permanent Representative of Papua New Guinea, speaking also on behalf of the Melanesian Spearhead Group, welcomed and encouraged the ongoing cooperative efforts on New Caledonia's self-determination process under the Nouméa Accord and the relevant General Assembly resolutions. He drew the Committee's attention to the fact that New Caledonia was now in the most critical phase of its self-determination process, which would involve holding a referendum (or several referendums, if necessary) on self-determination between 2014 and 2018.

47. He also echoed the serious concerns expressed by the President of the Congress of New Caledonia and the representative of FLNKS in their statements to the Fourth Committee on several key issues regarding the process of implementing the Nouméa Accord. While recognizing that much progress had been made with France's support, he said that there had been slippages and mixed messages from the administering Power, including on the transfer of secondary education responsibilities; land surveying and registration; and economic rebalancing in the Territory, which continued to pose a challenge, as the time frame set out in the Nouméa Accord had not been respected. The information provided by the petitioners from New Caledonia corroborated the findings of the 2011 report of the United Nations Special Rapporteur on the rights of indigenous peoples, which noted that the Kanak people were experiencing poor levels of educational attainment, employment, health, over-representation in Government-subsidized housing, and urban poverty. The failure to collect and publish ethnically disaggregated data, and the policy of formal equality underlying that failure, masked ongoing discrimination.

48. He also noted the concerns surrounding immigration and the different interpretations of a restricted electorate for local elections and their potential impact on the outcome of the referendum on self-determination, a situation compounded by the lack of ethnically disaggregated data. In addition, concerns had been expressed with regard to the transparency and procedures of the committees reviewing the electoral roll. A partial analysis of the electoral roll in the Greater Nouméa area had shown that some 1,900 Kanaks had been excluded from the special electoral roll, while a further 3,000 persons who were deemed by FLNKS to be ineligible to vote in local elections had been included on that roll. That situation would have an impact on the process outlined in the Nouméa Accord, potentially affecting the final political status of the Territory.

49. The Permanent Representative emphasized that a credible, fair and transparent electoral roll for the May 2014 election and the self-determination referendum in New Caledonia was imperative. A credible, fair and transparent system of reviewing the electoral rolls should be a priority for the administering Power, which was itself a signatory to the Nouméa Accord and thus had an interest in ensuring that it yielded results accepted by all sides. In that regard, he called upon the administering Power, the United Nations and the international community to address those serious concerns without delay in order to avert a travesty of justice.

50. He also welcomed the updated information which France had provided to the Secretariat on 11 January 2013 and encouraged further regular updates, especially of disaggregated social, economic and political data, in accordance with Article 73 *e* of the Charter of the United Nations. He reiterated the call for ongoing training of the Kanak people in technical and management areas, capacity-building and the transfer of powers, with equal emphasis on development across all sectors and parts of the Territory.

51. He welcomed the call by the delegation of New Caledonia for a United Nations visiting mission before the provincial elections in May 2014, and urged France, as the administering Power, and the Special Committee on decolonization to consider that request favourably. Given the phase that New Caledonia was about to enter, the active engagement of the United Nations would be a useful signal that the international community was participating to ensure a credible process. He called on France to consider accepting international observer missions, including from the Melanesian Spearhead Group, for the May 2014 local elections in New Caledonia and the referendum on self-determination when it took place.

52. The Permanent Representative of Solomon Islands, for his part, stressed that on the question of New Caledonia, the administering Power and the Non-Self-Governing Territory were cooperating on the preparatory process for the referendum to be held between 2014 and 2018 as agreed under the Nouméa Accord. He also echoed the issues raised by the petitioners from New Caledonia relating to immigration, the voter registration process and the legislation needed in keeping with the spirit of the Accord. He trusted that those issues would be addressed in good time and within the framework of the Accord. He also stressed the importance of timely preparation for a credible referendum in accordance with the universally accepted principles and practices defined in resolution 1514 (XV) and other relevant General Assembly resolutions. In support of the request made by the representative of Papua New Guinea on behalf of the Melanesian Spearhead Group, he asked for a United Nations mission to visit New Caledonia in 2014.

53. At the 8th meeting of the Fourth Committee, held on 14 October 2013, the Permanent Representative of Palau voiced his support for the desires and aspirations of the people of New Caledonia, as expressed by the President of the Congress of New Caledonia, for a successful election through a process that was free, transparent and credible at each and every step. He urged all those responsible, whether in France or New Caledonia, for each upcoming vote on self-determination to ensure that the processes were free, fair, credible and transparent.

54. At the 5th meeting of the Fourth Committee, held on 9 October 2013, the President of the Congress of New Caledonia and signatory of the Nouméa Accord, Roch Wamytan, said that New Caledonia had recently commemorated the 160th anniversary of France's taking possession of the Kanak country. The strategies

initiated by France in some of its areas of jurisdiction and the alternatives proposed for the outcome of the Nouméa Accord after 2014, which had been confirmed by the conclusions of the symposium on the twenty-fifth anniversary of the Matignon Accords, held in Paris on 8 and 9 October 2013, were considered unacceptable. Those strategies were best conveyed by the term "Françafrique", which denoted partnerships in which sovereign powers remained with the former colonial Power. He highlighted the issues surrounding the establishment of the electoral rolls to be used in the upcoming elections in 2014, which would pave the way for an initial referendum as early as 2014, if three fifths of the Congress chosen in those elections so decided. He condemned the fact that more than 3,000 people born outside New Caledonia had been deemed eligible to vote in the 2014 elections, even though they did not meet the established criteria. At the same time, more than 1,900 Kanaks who met the criteria had been excluded from voting and were on the supplementary roll of persons not allowed to vote in those elections. In his view, the existence of such discrepancies would call into question the fairness of the results of the May 2014 election and the referendum. He therefore called for the electoral rolls to be established in an open, transparent and fair manner in order to avoid the risk of voter fraud, and said that the United Nations, in its role as guarantor of the right of peoples to self-determination, should send a visiting mission to New Caledonia, as well as an electoral observation mission. He also supported the request of Vanuatu to host the Pacific regional seminar in 2014.

55. The representative of FLNKS, Mickael Forrest, drew the Committee's attention to the fact that key provisions of the Nouméa Accord had not been implemented, especially with regard to the transfer of powers, where progress was uneven. He highlighted the recurrent delays noted in the implementation of the Accord, particularly with regard to local government structures, higher education and broadcasting, which created a climate of political tension. He also referred to the issues related to the establishment of the electoral roll for the May 2014 elections, the outcome of which would allow a referendum to be held on self-determination. In addition, he pointed out that the failure to implement the provisions of the Accord concerning control over the nickel sector was hindering the growth prospects of the Territory's natural resource-based economy.

C. Action taken by the General Assembly

56. On 17 December 2013, the General Assembly adopted, without a vote, resolution 68/92, based on the report of the Special Committee transmitted to the Assembly (A/68/23) and its subsequent consideration by the Fourth Committee.

Annex

Eleventh meeting of the Committee of Signatories of the Nouméa Accord

Friday, 11 October 2013
Hôtel de Matignon, Paris

Conclusions

The eleventh meeting of the Committee of Signatories of the Nouméa Accord, established by section 6.5 of the Accord, was held on Friday, 11 October 2013, under the chairmanship of Jean-Marc Ayrault, Prime Minister, in the presence of Victorin Lurel, Minister for Overseas Territories.

The following delegates participated in the meeting in their capacity as signatories: Paul Néaoutyine accompanied by André Némia, Roch Wamytan accompanied by Aloissio Sako, Victor Tutugoro accompanied by Odette Moindou-Pascal, Pierre Frogier accompanied by Eric Gay, Simon Loueckhote accompanied by Pascale Doniguian, Bernard Deladrière accompanied by Thierry Santa, and Harold Martin accompanied by Aiesio Saliga.

The following members of parliament and representatives of New Caledonian institutions also participated: Sonia Lagarde, deputy, first constituency; Philippe Gomes, deputy, second constituency; Hilarion Vendégou, senator; Maurice Ponga, member of the European Parliament; Cynthia Ligeard, President of the South Province; Néko Hnepeune, President of the Loyalty Islands Province; Gilbert Tyuienon, Vice-President of the Government; and Paul Vakié, President of the customary senate.

Participation in the eleventh meeting of the Committee was extended to include the political groups represented in the Congress of New Caledonia. Pierre Bretegnier, Virginie Ruffenach, Georges Naturel, Caroline Machoro-Reignier, Alexandre Amosala, Gérard Reignier, Jean-Pierre Djaïwé, Adolphe Digoué, Philippe Michel and Gérard Poadja attended the meeting in that capacity.

Also present were Marc Vizy, adviser to the President of the Republic; Jean-Jacques Brot, French High Commissioner in New Caledonia; and Thomas Degos, Director General for Overseas Territories.

The meeting was opened by the Prime Minister. An introductory overview of all items on the agenda, given by the High Commissioner or Director General for Overseas Territories, was followed by the discussion and conclusions set forth in this statement of conclusions.

I. Transfer of powers

1. The Government recalled that several powers had been transferred since the last meeting of the Committee of Signatories: maritime security and domestic air traffic on 1 January 2013, and civil and commercial law on 1 July 2013. With regard to civil and commercial law, preparations in conjunction with New Caledonian services had begun for the transfer of management of the trade and business register, civil registry, and trusteeship and guardianship registry. The Ministry of Justice had begun to develop procedures for resolving conflicts of laws, which, in accordance

with the opinion issued by the State Council on 23 May 2013, fall within the scope of organic law. That work should be completed by the end of the first half of 2014.

The Committee noted that, pursuant to article 21 of the Organic Law, the transfer of authority in matters of civil defence would take place on 1 January 2014. That would involve the full transfer of the Civil Defence Directorate of the French High Commissioner, in accordance with the option chosen at the steering committee meeting of 15 July 2013. The State would help finance the establishment of an operations centre and the training of civil defence personnel. The New Caledonian delegations reiterated their wish to have the State participate in the refurbishment and fitting out of relief centres.

The Rural Development and Land Management Agency remained to be transferred, pursuant to article 23, on the basis of a congressional decision.

2. The participants conducted an initial review of the work of the interministerial standing committee responsible for providing support for the transfer of powers under way or completed. Headed by a chief of unit working directly with the Director General for Overseas Territories, the standing committee, which comprised a representative appointed by each ministry, had met at least once every three months.

For example, with regard to insurance law, the standing committee had developed a means of prioritizing those aspects of insurance law that required updating, as well as Territory-specific monitoring tools.

With regard to the transfer of powers provided for by article 27, the competent authorities had, within the framework of the support structure, begun to review the status and scope of the three areas in question so that the Congress would have all the necessary elements at its disposal when called on to issue a decision in accordance with the Organic Law. Standard procedures had been established, based on three steps: taking a "snapshot" of existing structures; establishing the legal, budgetary, labour and material scope of the activities to be transferred; and costing the transfer of powers. Details were given in the case of broadcasting. The French High Commissioner would lead a working group on the state of progress of those transfers.

3. The Committee welcomed the commitment by the State to provide full funding for the construction of secondary schools in Mont-Dore and Pouembout, with a view to their opening by the start of the 2016 school year.

The Committee took note of the announcement by the Prime Minister that a mission from the prisons administration would visit the North Province beginning on 6 December. The Committee expressed the hope that prevention and reintegration policies agreed upon by the State and the local authorities of New Caledonia would be implemented.

II. Amendments to the Organic Law

Following the meeting of the joint commission on 9 October, the Government submitted to the Committee a draft organic law updating the Organic Law of 19 March 1999, as well as a draft law containing various provisions related to the overseas territories, including several measures concerning New Caledonia.

Particular emphasis was placed on New Caledonia's recently acquired authority to create independent administrative authorities with full powers in its areas of competence, in particular in the area of competition, as well as the devolution of special administrative policing powers to the President of the Government.

The Committee noted with satisfaction that, in addition to the requests formulated at the previous meeting of the Committee of Signatories, the Parliament had adopted several provisions that had been anticipated by the local population, including a "price/quality shield" in the banking sector and the compensation of victims with customary status. The Committee requested the Government to issue, as soon as possible, an order to extend and appropriately modify Book IV of the Commercial Code in order to ensure, with respect to those matters within the jurisdiction of the State, that the future local competition authority would have all powers necessary for its operation.

III. Progress in the three local steering committees

Steering Committee to assess progress under the Nouméa Accord: Following the tenth meeting of the Committee of Signatories, the locally established working group had taken up the issue of fiscal revenue-sharing, among other matters. The work carried out, which had concluded in September, had resulted in progress with regard to the financing of certain areas under New Caledonian authority (housing assistance, job placement, disability, medical check-ups) and the floor percentage for fiscal revenue-sharing with the provinces.

The Committee welcomed the work of the working group and called for its continuation. The format of the working group appeared particularly well suited for addressing all the problems faced by both the provinces and New Caledonia as a whole.

Steering committee on the institutional future: The mission responsible for considering the institutional future of New Caledonia introduced a discussion paper based on the work it had done for the steering committee. In particular, it presented four possible institutional options to give effect to the Nouméa Accord.

The mission presented the general considerations that had guided the preparation of the discussion paper.

The Committee took note of the presentation and agreed that the discussion paper could be used as a basis for work and debate with a view to the preparations for the referendum prescribed by the Nouméa Accord. In that respect, the Committee felt that the discussion paper should be widely disseminated.

The participants discussed the conditions under which preparations would be made for the referendum after the provincial elections in 2014. The State confirmed its willingness to assist the partners in their deliberations if they so requested.

Industrial strategic committee and the nickel industry: The Committee of Signatories took note of the status of the discussions on nickel markets and activities undertaken within the framework of the Conference of Presidents.

In particular, the Committee reiterated the need to build a coherent, long-term industrial strategic framework, implemented by all stakeholders, in order to ensure

the sustainable future development of mining and metallurgical activities and to maximize their socioeconomic benefits.

To that end, the Committee requested the Conference of Presidents to consider proposals for optimizing the use of that resource.

IV. Assessment of progress on identifying signs

The Committee noted with satisfaction the work accomplished since the last meeting of the Committee by the special congressional commission responsible for adopting a flag expressing both the Kanak identity and the future to be shared by all.

V. Training

The Government reported to the Committee on the work carried out since the last meeting of the Committee of Signatories in response to the Committee's request for the establishment of structured mechanisms for the advancement of New Caledonians in the civil service, particularly the sovereign civil service.

1. The Minister for Overseas Territories stated that a proposal would soon be made to New Caledonia to conclude a framework agreement establishing modalities for temporary secondments of local civil servants to the State administration, in New Caledonia and in the central administration. However, he drew attention to the need for New Caledonia to clarify its needs so that, on the basis of that framework agreement, career paths tailored to individuals could be established.

2. The Committee welcomed the action plan prepared by the Directorate-General of the National Gendarmerie, and the four actions on which it was based: increasing local recruitment through the establishment of a training school in the Territory, enhancing internal promotion by doubling the number of volunteer deputy police officers in the honours course, improving guarantees with respect to the return of New Caledonians deployed to France, and improving the identification of New Caledonian candidates with strong potential to become police officers.

3. With regard to private-sector executives, the Minister for Overseas Territories stated that his Ministry would co-finance scholarships for business degree programmes, within the framework of agreements between the State, New Caledonia and the provinces. In that connection, he announced that the Ministry for Overseas Territories was prepared to release €800,000 per year for 10 scholarship recipients, or €80,000 per student (9.6 million CFP francs), with local governments in New Caledonia supplying the remainder.

4. The New Caledonian partners called for the establishment of a polytechnic institute for industry and services.

The Committee agreed to hold its next meeting during the second half of 2014.